

# Exhibit B

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

10 CR 56 (RJS)

5 JASON GOLDFARB,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 August 19, 2011  
10:00 a.m.

10 Before:

11 HON. RICHARD J. SULLIVAN,

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the  
16 Southern District of New York

RICHARD C. TARLOWE

Assistant United States Attorney

17 MICHAEL L. SOSHNIK

18 Attorney for Defendant

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1 (In open court; case called)

2 THE LAW CLERK: Appearing on behalf of the government?

3 MR. TARLOWE: Richard Tarlowe for the government.

4 THE COURT: Good morning, Mr. Tarlowe.

5 For the defense?

6 MR. SOSHNICK: Good morning, your Honor. Michael L.

7 Soshnick.

8 THE COURT: Mr. Soshnick, good morning. Mr. Goldfarb,  
9 good morning to you. I want to say good morning to the others  
10 who are here. I am sure there are friends and family members,  
11 former clients of Mr. Goldfarb and others who are interested.  
12 All are welcome. This is a public courtroom. Everyone is  
13 welcomed to be here. I am sure you are here to support Mr.  
14 Goldfarb. I am sure your presence means a great deal to him.  
15 Thank you for being here. Many of you wrote letters and I read  
16 them all. So I want to thank you for taking the time to do  
17 that. Such letters can be helpful to help the Court get a  
18 sense of the individual being sentenced. I thank you for  
19 taking the time to do that.

20 Let me say initially I apologize we're getting a late  
21 start. I think I have a reputation for punctuality. In this  
22 case I was a little late getting up here because I really did  
23 want to both collect and review again some of the materials  
24 that had been submitted. So I don't lightly make lawyers or  
25 others wait in court. I know you all have things to do and

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1 important appointments and other things that are important to  
2 you and rightly so. That is the reason for the delay. So I  
3 apologize.

4 We're here for sentencing. Mr. Goldfarb pled guilty  
5 before me back in April, April 21. I want to go over with the  
6 parties what I received in connection with sentencing and if I  
7 have left something out then by all means let me know. First  
8 of all, I reviewed the plea transcript from April 21. I have  
9 reviewed of course the presentence report from the Probation  
10 Department, which is dated August 5th, and it is about a  
11 30-page report with the recommendation of the Probation  
12 Department. I have reviewed Mr. Soshnick's submission, which  
13 is dated August 11th. That submission is just 16 pages,  
14 single-spaced. It also includes a number of attachments,  
15 including approximately 50 plus letters or so as well as also a  
16 report, psychiatric report, psychological summary I should say,  
17 which I am sure we'll hear more about today.

18 Then I have received and reviewed the government's  
19 sentencing submission, which is a nine-page, double-spaced  
20 submission dated August 12th. It also includes a number of  
21 exhibits, which are transcripts of recordings that were made  
22 during the course of the investigation, during the wiretap, and  
23 some or most of them were played at the trial of Mr. Goffer and  
24 others. So I have reviewed those.

25 I then have an August 17th submission. It is a

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1 one-page letter from Mr. Soshnick. It principally attaches a  
2 letter from Mr. Goldfarb to the Court as well as six additional  
3 letters from friends, family members and clients. So I have  
4 reviewed all those as well.

5 That is what I reviewed in connection with sentencing.  
6 In addition, I presided over the trial of Zvi Goffer, Emanuel  
7 Goffer and Michael Kimelman. So I have certainly heard a lot  
8 of evidence and testimony related to this scheme that is the  
9 subject of this sentencing today. So I am certainly familiar  
10 with the case.

11 Is there anything else I have left out, Mr. Soshnick?

12 MR. SOSHNICK: No, your Honor. You've been very  
13 thorough and you included everything that was submitted to you  
14 on behalf of my client.

15 THE COURT: Mr. Tarlowe, anything from the  
16 government's perspective that I may have left out?

17 MR. TARLOWE: No, your Honor.

18 THE COURT: Let's start with the presentence report.  
19 The presentence report is dated August 5th and I think it is  
20 very clear from your submission, Mr. Soshnick, that you  
21 received a copy of the report. There was a prior report I  
22 guess as well?

23 MR. SOSHNICK: Yes, your Honor.

24 THE COURT: So you've reviewed this report with your  
25 client?

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1 MR. SOSHNICK: Yes. I reviewed the prior report and  
2 formulated objections and I reviewed the subsequent report with  
3 my client. That's correct, your Honor.

4 THE COURT: And the objections that you've made, some  
5 of them I think were already addressed in the report and so it  
6 seems to me the only objections that remain relate to the  
7 amount -- tell me what objections remain.

8 MR. SOSHNICK: Your Honor, we're satisfied with the  
9 manner in which the Probation Department resolved the various  
10 objections that I set forth in a letter to Probation, which I  
11 copied the government on.

12 THE COURT: So that is my understanding as well.

13 Mr. Tarlowe, have you received a copy of the  
14 presentence report?

15 MR. TARLOWE: Yes, your Honor.

16 THE COURT: Does the government have any objections to  
17 it?

18 MR. TARLOWE: No, we don't, your Honor.

19 THE COURT: Let's start then with the guidelines  
20 calculation for those who may not be familiar with how  
21 sentencings work. There are a number of factors that the Court  
22 is required to consider. We went over what those factors are.  
23 One of those factors are the United States sentencing  
24 guidelines. An edition comes out each year, a little different  
25 than the year before. The point of this book is really to

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1 provide some guidance to courts in imposing a sentence. These  
2 guidelines are advisory. They are not mandatory. There was a  
3 time when they were mandatory, but they are no longer  
4 mandatory. A Court is obliged to consider these guidelines. I  
5 don't are to follow them, but I have to consider them.

6 For each crime and type of crime, there is a chapter  
7 in this book that a Court is directed to go to and make certain  
8 findings and upon making those findings assign a certain number  
9 of points and it becomes a fairly technical and arithmetical  
10 exercise. But the point of the guidelines is to try to make  
11 sure that people who are similarly situated are treated roughly  
12 the same in the system of justice with the recognition that  
13 wildly disparate desperate sentences undermine people's  
14 confidence in the system of justice and it is on some levels  
15 unfair recognizing of course that no people are exactly the  
16 same or ever exactly similarly situated.

17 So we're going to spend a few moments going through  
18 these guidelines. It can be technical or at least it can sound  
19 technical, but in this case I think it is fairly  
20 straightforward and simple. I don't think there is any  
21 disputes what the guidelines are in this case.

22 MR. SOSHNICK: That's correct, your Honor.

23 THE COURT: So the guidelines calculation picks up on  
24 page 12 of the presentence report. Mr. Goldfarb pled guilty to  
25 two counts, Count One and Count Three. Those counts are

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1 grouped together under the sentences guidelines. According to  
2 guidelines there is a base offense level of eight because this  
3 crime involved insider trading. So pursuant to Section 2B1.4  
4 specifically 1.4(a), eight levels are the offense level.  
5 Because this offense involved profits of a little over a  
6 million dollars from trades made by Mr. Goldfarb's  
7 codefendants, the offense level is increased by 16 pursuant to  
8 Section 2B1.1(b)(1)(1) and 2B1.4(b)(1). So that deals in  
9 adjusted offense level 24. Because Mr. Goldfarb pled guilty in  
10 advance of trial, accepted responsibility for this crime, three  
11 levels are taken away, they are subtracted. That yields a  
12 total offense level of 21. Mr. Goldfarb has no prior  
13 convictions so he is in criminal history category I, which is  
14 the lowest criminal history category. As a result the  
15 guidelines range in this case given the offense level of 21,  
16 criminal history category of six the guidelines range is 37 to  
17 46 months. So that is the guidelines calculation in the view  
18 of the Sentencing Commission that is a sentence that will be  
19 appropriate for a person who has those characteristics and for  
20 a crime that involved those specific facts.

21 That is only one of a variety of factors that the  
22 Court has to consider. So I assume that is where we are going  
23 to go now and talk about those other factors. Many of those  
24 factors were referred to and discussed both in Mr. Soshnick's  
25 submissions and in the letters of friends and family members.



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1           So, Mr. Soshnick, I am happy to hear from you. And  
2 read your letters and all the attachments. Anything you would  
3 like to add, I am certainly happy to hear.

4           MR. SOSHNICK: Your Honor, as you pointed out my  
5 client is someone who obviously has no prior criminal history  
6 of any kind of nature whatsoever. He is an attorney and he has  
7 always loved being an attorney. He has represented many  
8 clients, all of whom have appreciated the very valuable  
9 services he has provided for them. Some of those clients are  
10 here today and actually want to address the Court.

11           I would indicate to the Court that unlike the others  
12 who figured in this conspiracy, my client was not motivated by  
13 greed but rather by need. He was involved in a situation where  
14 his father had a failing women's clothing store in Brooklyn and  
15 his mother was diagnosed with cancer. My client's father came  
16 to my client and told my client that he needed financial  
17 assistance.

18           THE COURT: When was that? That is repeated in  
19 virtually every letter. It is repeated in psychological  
20 report. It is in your letter, but it is never quite specific  
21 as to when all these facts took place.

22           MR. SOSHNICK: 2007, your Honor.

23           THE COURT: 2007. When in 2007?

24           MR. SOSHNICK: My client tells me it was April or  
25 March in 2007.

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1 THE COURT: This went on well into 2008, right?

2 MR. SOSHNICK: The trades that were referable to my  
3 client, for which my client received the aggregate sum of  
4 \$38,500 occurred in 2007 and just a little bit into 2008. That  
5 is correct.

6 THE COURT: There were other certainly conversations,  
7 including intercepted conversations, that indicate that this  
8 was a scheme that was going on into 2008 and there were plans  
9 to do more trades and much more profitable insider trades.

10 MR. SOSHNICK: Your Honor, my client informs me that  
11 he was paying for medical coverage for his mother in connection  
12 with her cancer diagnosis in 2007 and 2008. I want to just  
13 indicate to the Court that unlike others who went on lavish  
14 vacations and who spent a great deal of money on acquiring  
15 personalty, my client did not keep a nickel, a dime or a penny  
16 of the \$32,500 he received. All of it went to his parents in  
17 connection with his father's failing business and his mother's  
18 medical issues. I think that puts him in a position that is  
19 quite different from the other individuals who participated in  
20 this conspiracy. I think that point has been highlighted and  
21 rightly so.

22 Your Honor, I would like to also bring to the Court's  
23 attention that my client never traded a single stock in his  
24 life. Certainly during the entirety of this conspiracy he did  
25 not trade any stocks. I know that on the wiretaps, and I have

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1 reviewed the transcripts, he is heard talking about making  
2 millions and making enough money to retire, but I think that is  
3 part and parcel of his mental condition. I believe that that  
4 is evidence of his mania and grandiosity and Dr. Kirwin who has  
5 written an extensive psychological summary can speak in greater  
6 details about that.

7 I also want the Court to know that I personally  
8 participated with my client at two lengthy proffer sessions at  
9 the United States Attorney's Office. Mr. Tarlowe was present  
10 for both of those sessions as well as Mr. Fish and agents of  
11 the FBI. During those sessions, my client did everything he  
12 could possibly do to assist the government in getting  
13 convictions with respect to those who were going to trial.

14 THE COURT: That was when?

15 MR. SOSHNICK: I don't have the exact dates. Perhaps  
16 Mr. Tarlowe has the exact dates.

17 THE COURT: Well, are they before or after Mr.  
18 Goldfarb's guilty plea?

19 MR. SOSHNICK: They were before his guilty plea, your  
20 Honor.

21 MR. TARLOWE: Your Honor, the proffers were  
22 approximately a month or six weeks before the trial and  
23 probably a week or two before Mr. Goldfarb's guilty plea.

24 THE COURT: Relatively late in the date, right,  
25 Mr. Soshnick?

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1 MR. SOSHNIK: Your Honor, I want to be clear, I came  
2 into this --

3 THE COURT: I am not faulting you or anyone. I am  
4 just asking about the timing.

5 MR. SOSHNIK: I understand, your Honor. I came into  
6 this case late in the day and the prior attorney was told by  
7 Mr. Goldfarb that Mr. Goldfarb's desire was to cooperate with  
8 the government, and I wasn't present for a prior proffer  
9 session. But Mr. Goldfarb tells me that he did present himself  
10 and he spoke with an FBI agent and assistant United States  
11 attorney Reed Brodsky well before I came into this case.

12 So the two proffer sessions where I personally  
13 attended and participated were as Mr. Tarlowe said about six  
14 weeks before the trial and a few weeks before my client entered  
15 his guilty plea but shortly after his arrest when he retained  
16 counsel in this case. It is my understanding that he  
17 immediately told his prior counsel that he wanted to cooperate,  
18 accept responsibility, make amends for the wrongs he had done  
19 in this case and that he did in fact attend a proffer session  
20 with Mr. Hoffman and assistant United States Attorney Reed  
21 Brodsky is a and an FBI agent.

22 So I don't want the Court to think that this was an  
23 idea that came late to my client. This was his initial  
24 reaction to the situation. His initial reaction was to join  
25 Team U.S.A. right away. The government I think felt that they

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1 had sufficient proof against Zvi Goffer and his brother and  
2 they were not necessarily interested in allowing him to  
3 cooperate. When I entered the case, I implored Mr. Fish and  
4 Mr. Tarlowe to allow my client to proffer because I believed  
5 that my client was uniquely qualified to cooperate in the sense  
6 that he had dealt with the attorneys at Ropes & Gray as well as  
7 Zvi Goffer and Zvi Goffer's brother Emanuel, where the  
8 cooperator Bryan St. Arlas had only dealt with another attorney  
9 at Ropes & Gray, Mr. Arthur Cutillo, and my client. I said my  
10 client can close the loop and explain to you what was happening  
11 with respect to Zvi Goffer and Emanuel Goffer, and also I  
12 indicated that he had in his possession an exhibit that was  
13 handwritten by Zvi Goffer that I thought might be important for  
14 the government to see and possibly utilize in its prosecution  
15 against the Goffer brothers.

16 Further, I indicated that my client had a safety  
17 deposit box and that there were certain records that were  
18 associated with that box that figure in this conspiracy that  
19 may be useful to the government in establishing guilt beyond a  
20 reasonable doubt. So the government agreed to allow these  
21 proffer sessions to go forward. And also during these proffer  
22 sessions my client answered particular questions that were put  
23 to him by the government prosecutors and the FBI agents who  
24 were present with respect to certain nuances of the conspiracy  
25 and I honestly believe that he provided assistance. He was

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1 willing to testify but the government decided not to have him  
2 testify. Even during the course of the trial, I indicated that  
3 if the government wanted my client to testify as a rebuttal  
4 witness if the government believed that to be necessary and  
5 appropriate, my client would make himself available on a  
6 telephone call.

7 So I want to be clear my client's initial instinct was  
8 to cooperate and accept responsibility when he was arrested and  
9 he discussed that with prior counsel and there was an early  
10 proffer session. When I was hired my whole focus was on having  
11 my client cooperate and he did. I understand that the  
12 government has decided not to give a 5K letter in this case and  
13 I respect the government's decision. However, I believe that  
14 pursuant to the Second Circuit holding in *United States v.*  
15 *Fernandez*, the Court should take into consideration the fact  
16 that my client cooperated and did provide tangible assistance  
17 to the government in obtaining convictions in this case.

18 Further, I want the Court to know that my client's SEC  
19 counsel is present here in the courtroom and I did attach a  
20 letter from him to my submission.

21 THE COURT: Yes.

22 MR. SOSHNICK: My client is continuing to cooperate  
23 with that federal agency. So I think that the *Fernandez* case  
24 absolutely entitles the Court to credit my client for the  
25 cooperation both with the U.S. Attorney's Office and his

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1 ongoing cooperation with the Securities and Exchange  
2 Commission.

3 Of course my final point is that based upon my  
4 client's mental condition, the Court is absolutely entitled to  
5 sentence my client below the guideline range. There is a very  
6 detailed psychological summary that was attached to my  
7 submission. I indicated in my submission that if the  
8 government wanted to challenge any portion of the psychological  
9 summary, we would like to have a hearing. Dr. Kirwin is  
10 present. I have discussed that with Mr. Tarlowe and he  
11 indicated he is not challenging any portion of the  
12 psychological summary and a hearing would not be necessary from  
13 his perspective. But if the Court wants sworn testimony, Dr.  
14 Kirwin is available for that purpose. If not Dr. Kirwin wants  
15 to speak at these proceedings and share her thoughts and her  
16 analysis with respect to Mr. Goldfarb and where he stands at  
17 the present time.

18 THE COURT: I don't think we need a hearing.

19 MR. SOSHNICK: Very well. So for all the reasons set  
20 forth in my submission, I don't believe a sentence of  
21 incarceration is necessary. I know that my client has learned  
22 a very, very dear lesson. I know that he has suffered greatly  
23 as a result of the mistakes that he made which, resulted in his  
24 involvement in this conspiracy. Most particularly he is no  
25 longer going to be a lawyer, a counselor, an attorney at law.



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1 This is something that he absolutely loved. This is something  
2 that defined him professionally. This is a huge loss to him  
3 and I know that we all know lawyers who don't like being  
4 lawyers who regret ever having gone to law school. This is not  
5 one of those people. Mr. Goldfarb is somebody who loved  
6 practicing law for from the very first day and I know that  
7 there is a whole hole in his heart as a result of the fact that  
8 this disbarment is imminent. And of course the embarrassment  
9 that he has caused himself, family, friends and colleagues is  
10 something that he feels every single day.

11 So as my client has indicated in his letter to you,  
12 your Honor, he has already been punished more severely than  
13 anyone can possibly punish him with respect to imposing a  
14 formal sentence. I recognize that your considerations is  
15 general deterrence, and this is something that concerns me  
16 greatly because I know you have to take that into  
17 consideration. All I can say to you is that my client is  
18 absolutely agreeable to disgorging the \$32,500 that he received  
19 as his share of the proceeds of this conspiracy.

20 Frankly, your Honor, if he were punished based upon  
21 the offense he committed and not held accountable for the  
22 profits of the Goffer brothers, we would be looking at a  
23 guideline range that would afford the Court the opportunity to  
24 give Probation, he would be in Zone A in this case considering  
25 the fact that my client has no prior criminal history. But I



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1 recognize that we entered into a plea agreement that acknowledges  
2 those 16 additional points and the profits of the Goffer  
3 brothers. But I think in fairness when the Court fashions a  
4 sentence in this case, it should recognize that the only money  
5 my client received was the \$32,500 and all of it went to help  
6 his parents, and in particular his mother who unfortunately got  
7 the bad news of the cancer diagnosis.

8 There are many people who would like to speak and who  
9 know Mr. Goldfarb a lot longer than I know him and whenever the  
10 Court is ready to hear from them, I can tell you who is present  
11 be who wants to come forward.

12 THE COURT: All right. Why don't we do that now.  
13 Unless, Mr. Tarlowe, you want to respond to the certain points.  
14 It doesn't have to be now.

15 MR. TARLOWE: It doesn't have to be now.

16 THE COURT: You will get an opportunity. I don't know  
17 if it makes sense for you to hear from everyone and then  
18 respond now or respond now to Mr. Soshnick and then respond  
19 after others have spoken.

20 MR. TARLOWE: I will be happy to do it once after they  
21 have spoken.

22 THE COURT: My practice generally, and I will tell  
23 everyone is not unique but I think it is somewhat usual, I  
24 typically do allow family members to address the Court. Most  
25 sentences that doesn't happen, but I think a sentence imposed

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1 on one individual has affects on a great group of people and no  
2 one more significantly than family members who I think can very  
3 seriously be considered victims of the crime. I think it is  
4 important to give them an opportunity to be heard. I don't  
5 necessarily encourage them to do it because public speaking is  
6 difficult. Speaking in the courtroom is difficult. It can  
7 sometimes be a hard thing. I leave that up to the discretion  
8 of the individual friends and family members.

9 I read the letters. Sometimes people are more  
10 comfortable expressing themselves that way. No one should feel  
11 the need to stand up and speak out of fear I haven't read what  
12 is in the letters because I can assure you I have read those  
13 letters more than once. I thank you for taking the time to  
14 write them.

15 MR. SOSHNICK: In light of your comments, your Honor,  
16 I would like to first call upon my client's mother Nancy  
17 Goldfarb to address the Court.

18 THE COURT: Ms. Goldfarb, as I said before it is a  
19 difficult thing even for lawyers to speak in court. Take your  
20 time. Your name is Nancy Goldfarb, the usual spelling. You  
21 don't have to spell your name for the record. Some of the  
22 other speakers may have to do that. Speak clearly and take  
23 your time.

24 NANCY GOLDFARB: I don't want to disappoint my son. I  
25 don't want to be standing, like you said it very difficult but

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1 I can disappoint him. You read my letter. I am his mother. I  
2 mean what mother is not going to stand here and tell you how  
3 great their child is and he is. I wish you knew him under  
4 different circumstances. I didn't plan this talk.

5 THE COURT: Speaking from the heart. I understand.

6 NANCY GOLDFARB: I don't cry. So if I do this is  
7 going to be a first.

8 THE COURT: I do sometimes.

9 NANCY GOLDFARB: I don't. I am a rock. My son has  
10 been a great kid his entire life. I have gotten two phone  
11 calls in his life, November 5th from Robin that the FBI had  
12 arrested him. He is a very big practical joker. I thought it  
13 was a crazy joke. The other call I will tell you a little bit  
14 later.

15 Too much has been put on my son. I am always the one  
16 who handled everything. My husband and I were high school  
17 sweethearts, but when I was diagnosed he became useless. My  
18 son was a law school getting ready to do the bar, finals,  
19 whatever it was. He was the one that took me to surgeries,  
20 took me to treatment. Too much was put on him.

21 Forget this conspiracy. For me personally the biggest  
22 conspiracy was my husband went to my son behind my back and  
23 asked for help with health insurance.

24 THE COURT: That is in 2007?

25 NANCY GOLDFARB: I am confused with the dates today.

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1 I've always told my kids if anyone tells don't say something to  
2 your mother, red flag should go up. I didn't say that includes  
3 your father. He still to this day is covering my health  
4 insurance with all this stuff going on.

5 The second phone call. The first phone call ever, I  
6 said there were two phone calls, about Jason ever did wrong.  
7 He was in junior high. I get a call. I was in business with  
8 my husband. I get a call from the dean thinking it must be  
9 some kind of award, that is the only thing you ever hear with  
10 Jason, and he says to me, Ms. Goldfarb, I have a little boy  
11 sitting in any office with these blue eyes like oceans crying.  
12 He said, We had an incident in the lunch room. Incident in the  
13 lunch room? He says, Yeah, he was throwing spit balls. I  
14 said, What? So I pick him up from school and he gets in the  
15 car and the tears are flying. Ma, I have to ask you something.  
16 What do you back my lunch in? I said a bag. He said what do  
17 you put the sandwich in. Zip-lock bags. He said, Ma, it was  
18 tinfoil. It was tinfoil. Girls were flirting with me. They  
19 started it. He was the lawyer then.

20 Other than that I never had anything with Jason other  
21 than awards, honors. This never should have been. I don't  
22 know what else I am supposed to say. I want to say the magic  
23 words. I am his mother. I am supposed to be there to fix  
24 everything and I can't fix this. It is left in your hands.

25 You know, he was a bad boy at two. He was a biter.

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1 He used to bite kids.. So we started his first day of the  
2 toddler program, drop him off. It is only going to be for two  
3 hours. I come back and Ms. Lynn says to me, Nancy, we had a  
4 little problem. Problem, what did he do? He bit this kid.  
5 She said, What have you tried? I said, I tried everything. I  
6 spoken to the pediatrician. I put salt on his tongue. Any  
7 idea anybody ever told me, I tried. She said, This is what  
8 we're going to do. Tomorrow I want you to bring a little brown  
9 paper bag and have a bunch of treats in there and we're going  
10 to do the reward system. Every day he goes through a day that  
11 he doesn't bite anyone, he will get to pick something out of  
12 the bag. 10 cent toys. He never bit again. Jason does well  
13 with not hash sentences and punishment but rewards. Try in  
14 your heart, please, to be lenient. I don't know what else to  
15 say.

16 Jason, I hope I did okay.

17 THE COURT: Thank you, Ms: Goldfarb.

18 MR. SOSHNICK: Thank you, Ms. Goldfarb.

19 Your Honor, the next thing who would like to speak is  
20 my client's fiancée, Robin Kowlaski. Ms. Goldfarb referenced  
21 her.

22 THE COURT: Yes. I will ask you to spell your name  
23 first and last.

24 ROBIN KOWALSKI: I am Polish so I hope I can do. I  
25 have to make a joke. K-o-w-a-l-s-k-i, R-o-b-i-n. I am Jason's

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1 fiancée. I am an oncology chemotherapy nurse. I am here to  
2 stand before you obviously to beg for leniency for Jason, but  
3 for me too. Prior to Jason's arrest, which will be about two  
4 years ago almost, we were actively planning getting married and  
5 starting a family and obviously that has been put on hold.  
6 What I fear the most, what keeps me awake every night is not a  
7 lot of people know, only close family and friends, my early 20s  
8 I was diagnosed with a cardiac arrhythmia and I went to several  
9 specialists and they had recommended that I have children.  
10 Don't wait until I am 30 to have start a family. It was  
11 advised strongly against waiting until after 35 and as of this  
12 past April I am now 30. So I fear if you are not lenient that  
13 it would be a live sentence for me if I am unable to have  
14 children because the real tragedy would be that Jason will be  
15 an excellent father, but I would be the best mother. So I just  
16 beg for leniency for him and for me. Thank you. I am sorry.

17 THE COURT: That's all right. That's fine. Thank  
18 you.

19 MR. SOSHNICK: Your Honor, the defendant's father  
20 Marcel Goldfarb will like to address the Court.

21 MARCEL GOLDFARB: M-a-r-c-e-l. Good morning. I am  
22 Marcel Goldfarb, Jason's father. What can I say? We have a  
23 small family, but now I look around and I see a big family.  
24 Jason is a good guy. So I see people here that must think the  
25 same way as we do. I feel the burden I put on Jason is my

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1 fault.

2 You know, you take a person who walks into a grocery  
3 store and you see there is a piece of bread and he only catches  
4 him, calls the police and arrests him. There is another guy  
5 who robs the truck full of groceries. That guy is greedy.  
6 Jason or that person was hungry to help a person, and the store  
7 owner who caught that person should have a heart. He didn't  
8 steal because of greed. He stole because he was hungry. There  
9 is a difference between greed and necessity.

10 When my wife was diagnosed with cancer, I fell apart.  
11 Everything fell apart. So I feel I put a big burden on Jason.  
12 From the people I see here, he has heart. He must have touched  
13 these people's hearts like he always touched ours. If there  
14 was a way for me to take his place, I would do it right now.

15 THE COURT: I know you said that in your letter, but  
16 unfortunately that is not possible as you know.

17 MARCEL GOLDFARB: Exactly. I wanted to let you know  
18 again in case you missed that, which I know you are very  
19 thorough.

20 I want my Jason back. I put him in another world and  
21 I feel most of it like I said is my fault and all these people  
22 here know the person my son is. We can't take it anymore. I  
23 want my son Jason that everybody knows. And incarceration I  
24 don't know what it would do to him. I know what it is doing to  
25 us as of now since all of this started. I want our Jason back.

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1 He fell off a little bit and it is my fault. No one else's  
2 fault.

3 THE COURT: Why do you say it is your fault and no one  
4 else's fault?

5 MARCEL GOLDFARB: The burden. Because we always -- we  
6 taught our kids to protect your family and I think he just went  
7 off a little bit. He couldn't see us suffer. Jason doesn't  
8 want to see anybody suffer. He is the go-to guy, Jason. I  
9 think the world needs a person like Jason because he is a good  
10 guy. You can see from all the people here. He must have  
11 touched their hearts. So he went off the truck just like that  
12 guy who went in and stole the salami and bread. He wanted to  
13 survive. It wasn't out of greed.

14 So if the Court could show some leniency, it would be  
15 the best thing in the world you could do because we try to grow  
16 up our kids for the world and to be kind and gentle and be a  
17 good person. So if the Court, I would appreciate if the Court  
18 shows some leniency because incarceration with this gentleman,  
19 I am just scared that he is not going to come back as the Jason  
20 as we all know. Thank you very much for listening to me.

21 THE COURT: Thank you. This is difficulty. It is  
22 difficult and hard on families. That is one of the unfortunate  
23 realities with sentences. There are innocent people affected  
24 and certainly I am mindful of that. It is heartbreaking to  
25 think about.



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1 MR. SOSHNIK: Thank you, your Honor. There are some  
2 clients of Jason who would like to address the Court. The  
3 first one is Kathy Capalvo.

4 KATHY CAPALVO: Good morning, your Honor.

5 THE COURT: Let he ask you to spell your name. I read  
6 your letter, which was very moving.

7 KATHY CAPALVO: Kathy, K-a-t-h-y, Capalvo,  
8 C-a-p-a-l-v-o. Jason is my lawyer. He has been my lawyer for  
9 a couple of years, three years 11 months and six days. I lost  
10 my husband lymphoma. This was caused by exposure. No one  
11 wanted to help me. I have two sons and I had nothing. He was  
12 our superman, our rock. We had nothing. I had no hope. I had  
13 no way of getting restitution or supporting myself at the time  
14 as a part-time teacher's aide and then Jason stepped up. He  
15 became my lawyer.

16 He answered every question and I called him  
17 constantly -- constantly -- for everything. I didn't know what  
18 I was doing. I didn't know at that time that his mom was going  
19 through cancer also. So what I was putting on him, I can't  
20 imagine on top of what he was going through with his mom. He  
21 stuck with me and my son and he taught me. He answered every  
22 question. He was diligent, patient. He was kind to me. He  
23 saw how he cared for my sons and he said, You are like my mom.  
24 My mom will do anything for me. Now I see. Oh, my gosh.

25 He is a wonderful lawyer. He is my friend. Now I

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1 just cannot say enough about Jason. I will say anything that  
2 will help him. I would be grateful to you. I would do  
3 anything for my sons. And what he did for his mom, he did for  
4 his mom. Thank you.

5 THE COURT: Thank you very much.

6 MR. SOSHNICK: Your Honor, Linda Pryor is another  
7 client of Jason's who would like to address the Court.

8 LINDA PRYOR: Good morning, your Honor.

9 THE COURT: Just state your name and spell your name  
10 for the record.

11 LINDA PRYOR: Linda Pryor, L-i-n-d-a, P-r-y-o-r.  
12 First, I have to say I was not -- I asked to be here today and  
13 I want to hold this together because after seeing his family  
14 speak and I know the pain they are going through, I almost feel  
15 like I don't have a right to be emotional. But I have been  
16 emotional about this ever since I heard about it. Jason is  
17 also my lawyer. Jason literally saved my life. When Jason  
18 came into my life, I was about to be evicted. I had no money.  
19 I had been injured on the job and I was not getting paid. I  
20 was in total despair and then I met Jason. He is such a good  
21 person. He fought for me. He answered every question I had.  
22 I don't care when I called Jason, he always had time for me.  
23 He offered any help that he could.

24 Sometimes people make mistakes and I know that it is  
25 so out of character, but when you are under stress, you are

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1 likely to do anything especially when you have the history, the  
2 health history that his mother had. I know because my sister  
3 had cancer and I was willing to do anything to help her.

4 I am hoping that the Court will take into  
5 consideration how many people he has helped and know that  
6 nothing he did was not for profit for him. Jason is such a  
7 good person and he is my friend and there is no place else I  
8 would have been today except here to show support to someone  
9 who has done so much for me and I am really praying that the  
10 Court will take that into consideration. He really deserves a  
11 chance. Thank you, your Honor.

12 THE COURT: Thank you. I appreciate your taking the  
13 time.

14 MR. SOSHNICK: With the Court's permission Luis  
15 Crisafi, who was another client of Jason's.

16 LOUIS CRISAFI: Good morning, your Honor.

17 THE COURT: Spell your name.

18 LOUIS CRISAFI: Louis, C-r-i-s-a-f-i, L-o-u-i-s.

19 If I may, your Honor, I just if you don't mind will  
20 give you a quick background. First I would like to address the  
21 Court and say thank you for allowing me to address you. I  
22 would just like to say that my background is that I am a  
23 retired police officer, 25 years service and was injured on the  
24 job. Jason was my attorney. I don't know Jason really  
25 personally. My brother who is also an retired New York City

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1 detective was good friends of his when they were younger, very  
2 good friends with the family. I came into contact with Jason a  
3 few years ago as a result of my injury. The only thing I can  
4 say about Jason is the guy is as solid as can be.

5 I have been a narcotics officer for over 25 years.  
6 Your Honor and I both know that every defendant gets in front  
7 of a court and they are sorry they got caught. That is what  
8 they are really sorry about. In this case, this is a man who  
9 is going to be sentenced for the rest of his life. What he did  
10 he is taking responsibility for. He did that by a plea  
11 bargain. He stepped up to the plate. What he is going to face  
12 now from this court and what he is going to face from his peers  
13 and all his friends and family and everything in his future, he  
14 will live with for the rest of his life.

15 I know from my background I know good people and I  
16 know when people need another chance. This is a say man, your  
17 Honor, that I beg the Court to give another chance to. I had  
18 the pleasure of learning who this man was in the last several  
19 years as a result of my injury. I wound up with some very  
20 severe psychological problems. He wasn't an attorney, he was a  
21 friend. He stepped up to the plate when other people turned  
22 their back. I cannot forget that. I just had epidural  
23 injections and I am not supposed be out of bed and I took the  
24 train in from Hoboken to get here. I would never do that and I  
25 would never take this Court's time if I didn't feel that it was

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1 so important to let this Court know the kind of person that you  
2 have sitting in front of you.

3 I realize there are sentencing guidelines and there  
4 are situations that somebody needs to pay for the type of  
5 offense that they did. I implore this Court to take a very  
6 good, deep and hard look at the defendant in front of you and  
7 to be as lenient as possible. Personally I am incredibly  
8 impressed when I look around and an attorney has this many  
9 people that are in back of them. I want to thank your Honor  
10 for your time. I want to thank Jason for the friendship, the  
11 professionalism that he has provided me and I hope that justice  
12 is served today the best that your Honor sees fit.

13 THE COURT: Thank you.

14 MR. SOSHNICK: With the Court's permission, I would  
15 like to call upon one more client, Mava Hart.

16 THE COURT: Spell your name so the court reporter gets  
17 the correct spelling.

18 MAVA HART: M-a-v-a, H-a-r-t. First of all, I would  
19 like to -- I want to say so Jason's parents I want to thank you  
20 for the man that you created because Jason came into my life at  
21 a point where I felt the attorneys I had in my life weren't  
22 doing anything for me. I walked into Jason's office and he  
23 spoke to me. There was something in the way he said what he  
24 said that made me feel as though I had the best person in my  
25 life right in front of me. I had lost my baby sister to breast

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1 cancer, the sister right behind me use three time survivor, and  
2 I was sitting in his life fearing for my own life because I  
3 thought I had breast cancer. Jason said to me, Don't worry  
4 about it. He said, I am going to take care of you. He said, I  
5 know someone that can help you and this is what you need, I am  
6 here for you. Whenever I called Jason about anything, Jason  
7 would always say, Don't worry about it, I will take care of it.  
8 I want to let you know, Jason took care of everything and he  
9 kept his word. He is a man of his word.

10 Your Honor, we all make mistakes. There is not a  
11 person in here that has made a bad decision, but we need Jason  
12 because he is passionate about the job that he does. He loves  
13 people. He loves the fact that he can help people and I've --  
14 everywhere I go when I find out someone needs a lawyer like  
15 Jason, I give his name and number and his cell number. He will  
16 tell you, Call me. I don't care what it is. I was lying in my  
17 bed and in a hospital. I had just had emergency surgery. I  
18 said, Oh God, I have to call Jason and let him know what is  
19 going on. He said, Look, aside from the case if there is  
20 anything that you need, let me know. It doesn't have to be  
21 pertaining to the case. Just let me know and I will take care  
22 of it. I know that he would do it and I appreciate the fact  
23 that he extended himself because in this day and time we don't  
24 have people who care.

25 I worked for New York City Transit Authority for 21

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1 years and I never seen anybody who had that kind of heart, that  
2 kind of passion because we're in a world that people care about  
3 themselves and themselves only. Jason cares about people.  
4 People matter to Jason. We need Jason because he cares about  
5 people. We've got to the point where everything is everybody  
6 taking care of themselves and get what they want out of the  
7 situation. Yes, he will get paid for the work that he does,  
8 but he will never be paid for what he is really truly worth.  
9 Himself the way he puts himself on the line for people, he can  
10 never be paid for that.

11 The very fact that he is facing this situation, my  
12 heart is heavy because I know in his heart that he would never  
13 have made this decision if it had not been for the stress that  
14 he was put on. Family is family. You will make the sacrifices  
15 for your family. You will do whatever you need to do for your  
16 family. At that time this is a young man that is trying his  
17 best to hold his own, do what he need to do for himself as well  
18 as his parents. We live in a world today where kids don't even  
19 care about their parents. People don't care about one another,  
20 but he cares about his parents and put himself on the line and  
21 he knew he had to step up on the plate. I know what that is  
22 like when you have to be the person who has to stand up and be  
23 there for everybody else and put yourself on the back burner.  
24 So he made a decision based on the fact that I have to do what  
25 I have to do for my parents. There was no thought in his mind



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1 that, Wait a minute, I have think about my parents, my parents  
2 need me. Jason doesn't know this but I grew to love him  
3 because of the fact that he touched my heart.

4 Everyone I turned to and gave his number they called  
5 me back and they said, Mava, this is amazing, this man is  
6 awesome. Everyone told me Mava, I am so glad you told me about  
7 him. Jason will answer ever call. He doesn't care what time.  
8 He tells you, I am sorry for calling so late, but he will  
9 answer. We need people today because people are not -- they  
10 are not -- they don't care about one another and Jason cares.

11 If I could please, your Honor, please, I know that you  
12 have your sentencing guidelines, if nobody else needs him, I  
13 need him because there are times when I cannot make a decision  
14 for myself. I was at a point where I didn't even know how to  
15 write a letter and Jason said, Look, I will handle it for you  
16 and I thought about what he is going through and I felt like  
17 Mava, You cannot put that on Jason. Let him deal with the  
18 situation. He is dear to me and I kept thinking all this time  
19 there was something I could do for him.

20 When it came to the point of being here, I got up this  
21 morning with pain through my body and I prayed and I asked God,  
22 please give me the strength to be here because this man needs  
23 for people to know who he is and if there is something that I  
24 can say to you that would make it a little better that you  
25 would decide on his behalf to, you know, be lenient, please be



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1 lenient because there are not people out there with that kind  
2 of passion. This man is passionate. I cannot tell you about  
3 that. Here, I am a black woman and you know he could call me,  
4 look, if I can do something for him, I would do it for him in a  
5 heartbeat.

6 I wanted him to know that you are special to me. You  
7 will always be special to me because he stood up for me when my  
8 family wasn't even there for me. That means a lot to me and I  
9 want to thank you.

10 THE COURT: Thank you.

11 MR. SOSHNICK: Your Honor, as you can see there are  
12 many friends and family of my client who are here. Some of  
13 them would like to speak and I would like to begin with  
14 Michael Barrows.

15 MICHAEL BARROWS: Good morning, your Honor. My name  
16 is Mike B-a-r-r-o-w-s. I am an attorney in New York. I went  
17 to law school with Jason. Throughout law school he helped me a  
18 lot. There have been some hard times and easy times. Jay has  
19 always had a love for the law and people. The second I met him  
20 we hit it off and became great friends. He is a wonderful  
21 person. There is a common thread between all these people who  
22 came up here. It shows that Jason is a very unique individual.  
23 He may have done something wrong.

24 THE COURT: No, he did something wrong.

25 MICHAEL BARROWS: He did something wrong. Judge, I

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1 apologize. He took responsibility for it, Judge. It is, I  
2 just don't know what to say. I know Jay is a person very  
3 inclusive when it comes to his feeling. I wish he had told me  
4 about his problem with his family. I know Robin. I introduced  
5 him to his fiancée. I have been to his parents' house. I know  
6 his brother.

7           Regretably my mother could not be here today who knows  
8 Jay. She couldn't handle the fact that this was happening. My  
9 grandmother had pictures of Jason with my grandmother who was  
10 in South Carolina during the time that he was -- during the  
11 time of our graduation.

12           Soon after our graduation, I moved to Jay's block. I  
13 would get up and my job wasn't as demanding as his at first. I  
14 would see Jay go in 7:00 in the morning. I would come home,  
15 maybe I would get food. I would see Jay come home 9:00 or  
16 10:00. He loved what he did. He loved being a lawyer and  
17 helping people. I think that everyone has attested to that  
18 already today, Judge. I think you received a lot of letters  
19 attesting to that fact.

20           What happened happened. I know he regrets it. He  
21 used to have dark hair like me two years ago and now it is  
22 gray. He is a good man, Judge. I pray that the Court will  
23 show leniency and mercy for him. It was done out of necessity  
24 and it was --

25           THE COURT: Why do you say that? Everyone keeps

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1 saying it was done out of necessity. It was insider trading.

2 It is not a momentary lapse, right?

3 Are you familiar with the facts?

4 MICHAEL BARROWS: I followed it since day one, Judge.

5 I don't want to go -- I don't know -- I don't want to comment  
6 on that, Judge. There was a plea. I don't want to. I know he  
7 is regretful for what he did. He suffered emotionally,  
8 physically. He is losing his license. He suffered greatly in  
9 this and I would just ask, Judge, that the Court please show  
10 some leniency, mercy. He is a good man. He is a man who wants  
11 to start another life with his fiancée. This is a man who was  
12 punished enough I believe, Judge. I want to thank you for your  
13 time.

14 THE COURT: Thank you.

15 MR. SOSHNICK: John Merlino.

16 JOHN MERLILNO: Judge, I would like to start off --

17 THE COURT: Start off by stating your name and  
18 spelling it.

19 JOHN MERLILNO: M-e-r-l-i-n-o.

20 THE COURT: John.

21 JOHN MERLILNO: Yes. I would like to thank you, your  
22 Honor, for allowing us to speak today. You heard family speak  
23 on behalf of Jason as to his character and as a beautiful human  
24 being. I am like you, I cry, Judge. Jason has touched my  
25 heart. I have had the honor to meet him and work with him at

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1 the old law firm in 2002. We all have a family member or a  
2 friend who is the life of the party, Jason was the life and  
3 sole of that firm. He would continually and constantly offer  
4 his help to fellow colleagues.

5 I had a moment in my life that I articulated in my  
6 letter where I too went through a hardship with my dad and I  
7 know many people, your Honor, but Jason came forward and I  
8 never forgot it. He offered so much help to watch our children  
9 so I could be with my dad, transport my mother to the hospital.  
10 No one offered that. I had a large family. No one came  
11 forward except Jason.

12 I noticed through the years as we worked together, and  
13 it is coming to fruition based on what I heard, the plea,  
14 everything that happened here, that in '07 Jason seemed to have  
15 his spirit smoothed. No one really understood why. Jason was  
16 close to many colleagues in the old firm. At times we would go  
17 out with other colleagues, he would drink a lot. It was out of  
18 character for Jason to do something like. He was the person  
19 who would initiate basketball games with other colleagues. He  
20 was very active in playing sports such as hockey. So when all  
21 this happened and I was active in Brooklyn working for some  
22 politicians at the time, there was rumors about a store in  
23 Sheepshead Bay called Sea Horse. That is my colleague's dad's  
24 store. It was rumored that he was having financial difficulty.

25 Moving forward as time went on Jason started e-mailing

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1 the partners in the firm, other associates, if he could start  
2 working harder and participating in municipal pension  
3 department or social security department to earn more money.  
4 He came forward and he tried and he tried to seek help, but the  
5 problem with Jason he had pride and it is evident today based  
6 on the way everyone is speaking and the way his father  
7 articulated it as well. It is very hard to see a man like him  
8 sitting here today and going through the punishment that he is  
9 going through by losing his license. I know Jason. This is  
10 killing him that he has to sit here before his mother and his  
11 father and his fiancée. This is torture enough for this man.  
12 He has touched some people's lives. It is unfortunate. He has  
13 clients that are here at the old firm you can pack this room  
14 with probably 100 clients that Jason worked with and helped.

15 There was one particular client who was a priest, who  
16 was Father Mike, Father Champion. Jason was the one would was  
17 assigned to his case. What this man did, and I don't know if  
18 your Honor is familiar with worker's comp, workers'  
19 compensation take years to establish a thumb. This individual  
20 Father Champion was at Ground Zero, conducted last rites for  
21 the heros that had perished during that tragic event. It was  
22 unfortunate for the priest he developed lung diseases and  
23 whatnot. Jason was there. He helped him. He helped him  
24 obtain the medical treatment he needed. He helped Father  
25 Champion get his benefits. If I had access to our old firm's

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1 clientele list, you would see literally hundreds of people  
2 here, your Honor, on behalf of Jason. This is who he is.

3 Your Honor articulated that it is a crime that  
4 affected other people and I think it is evident that a lot of  
5 people depend on him and need him. I have three older sisters  
6 and I know it is tragic for me, but I had the honor of being  
7 friends with Jason and he has truly been like a brother to me  
8 and the things that he has done especially when I was going  
9 through this hard time with my dad, I can never ever forget the  
10 unselfishness that he portrayed to me to help me and my family  
11 and I will never forget it.

12 I beg you of, your Honor, that you show mercy on him  
13 and truly believe in your heart that this is an individual that  
14 made a mistake and his lack of judgment wasn't his fault. He  
15 was under a tremendous amount of stress. It was evident  
16 working with him and seeing the change in Jason to life of the  
17 party to an individual who was to himself, very pensive. It  
18 makes sense now. So I beg of you, your Honor, please show him  
19 mercy to this man. He is a good man. He is a good person. By  
20 showing your leniency, you are really trying -- you are truly  
21 in my eyes and the eyes of everyone who is here for him that is  
22 justice.

23 THE COURT: You don't understand or you don't seem to  
24 there are other people who are not here who will be looking at  
25 this sentence. This sentence matters to others who don't know

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1 Mr. Goldfarb personally, but it is an important sentence to  
2 them as well. You are a lawyer so you understand that.

3 JOHN MERLILNO: I understand as you indicated the  
4 guidelines.

5 THE COURT: Not just guidelines. There are other  
6 objectives of sentencing that are important. If lawyers get to  
7 commit crimes and able to say, Well, I am going to lose my  
8 license and that is punishment, what message does that send to  
9 a broader population?

10 JOHN MERLILNO: I can't speak for other individuals,  
11 your Honor. I can only speak for Mr. Goldfarb and knowing him  
12 as a friend and as an individual as a human being that is why I  
13 am here speaking --

14 THE COURT: I understand that.

15 JOHN MERLILNO: -- not conducting summations or  
16 arguing a case.

17 THE COURT: I am asking you to consider some of these  
18 other objectives. These are the objectives that Congress has  
19 directed be considered. As a lawyer, I think you more than  
20 some of the others who have spoken, might understand some of  
21 those, might consider them.

22 JOHN MERLILNO: I may or may not. I do worker's comp.  
23 I appreciate your time.

24 THE COURT: I appreciate your being here. I  
25 understand you are speaking about what you know. You are



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1 speaking about a person that you regard as a friend and even  
2 more than a friend, as a brother you said. That is true of the  
3 others who have spoken and the others who have not spoken but  
4 written letters.

5 JOHN MERLILNO: Thank you, your Honor.

6 MR. SOSHNICK: Just two more friends and colleagues  
7 and then I will call on Dr. Kirwin to speak. With the Court's  
8 permission the next speaker will be Jared Levine.

9 JARED LEVINE: J-a-r-e-d, L-e-v-i-n-e.

10 Your Honor, I am here speaking on behalf of my  
11 partners at Durish, Levine and Morgan. I am the managing  
12 partner of the firm. We represent about 200 other clients of  
13 Jason's who could not be here today but we are the voice for  
14 them as well.

15 I met Jason about two years ago after he got arrested.  
16 I didn't find out about it until maybe two or three months  
17 after that. I just happened to go online. I forgot his  
18 mailing address. All of a sudden Jason Goldfarb, insider  
19 trader, million dollar claims and I didn't believe it. It took  
20 me weeks to keep going back to look for pictures to see if it  
21 was really Jason and I saw that his law firm he worked for at  
22 the time was listed, too. I couldn't believe that it was the  
23 person who I knew.

24 As managing partner attorney I have to have good  
25 judgment. People who I bring into my family of business, they



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1 have to be honest and trustworthy, compassionate and that is  
2 who Jason was to me. I was shocked. I couldn't believe that  
3 he was that person. Then he addressed it with me and discussed  
4 with me what was going on in his life at that time when he was  
5 doing the insider trading. He told me about Nancy, he told me  
6 about her being diagnosed with cancer. I heard it. I kind of  
7 internalized it. It could have been an excuse. I didn't make  
8 that much sense to me because that is what I have to do as an  
9 attorney, I have to judge people what they did, some are right,  
10 some are wrong, some I don't believe, some I do. Then I just  
11 went on thinking Jason was a criminal, that I had bad judgment  
12 on who I brought into my family.

13 Then on Easter weekend of this year we got one of  
14 those phone calls that my 38-year-old sister was diagnosed with  
15 Stage 4 lymphoma and it was everywhere. I am not a sentimental  
16 person. As my job, I can't be. I need to be very straight and  
17 unemotional, but that shook us to our core. After a couple  
18 weeks of going into work as a zombie and just having to pull  
19 off to the side of the road because I couldn't drive because I  
20 was losing it, I started thinking about Jason and about what he  
21 was going through around the time when I was dismissing what he  
22 was telling me about his family.

23 I have a very good moral compass I think. I think I  
24 have very good judgment. I started thinking what if? My  
25 sister has perfect health insurance. She is doing well.

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1 Everything is good. What if she didn't? What if I had to pay  
2 for that and I couldn't would I as an attorney with good  
3 judgment as a manager partner do what he did, and before that  
4 happened to my sister there is no way. It never even would  
5 have crossed my mind. I am not a criminal. But when you look  
6 at the total of the circumstances, you know as I am sitting on  
7 the side of the road on the Turnpike for those two weeks, I am  
8 not the same person who I was. I am not that person now.  
9 Everything is a little bit better and my judgment may have been  
10 clouded. I may have done the things that I wouldn't normally  
11 do so that my sister could get chemo or she could have you  
12 dignity of having a wig that cost \$5,000 that insurance doesn't  
13 pay for.

14 So everyone thinks -- they talk about a mental disease  
15 that impairs his judgment and I didn't buy that before and I  
16 completely do because when you look at the affect that it is  
17 going to have on you personally, what he would have been an  
18 insider trader if this happened to his mother? No shot. I  
19 don't think so. I don't think. He has good judgment. The  
20 person I know now is not the same person who was trading at the  
21 time I fully believe. I didn't know him when he was trading at  
22 the time, but I know him now.

23 Let me speak about punishment. Losing his license,  
24 embarrassment to family and friends. That is punishment  
25 enough. Obviously he is never going to this. We talk about

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1 suicide. What is the message that you are going to send to  
2 society if you are lenient? Society is here today. You have  
3 all the clients, you have the attorneys, firms. This is  
4 society. I think if there is leniency and not sending him to  
5 prison, the message is that there is compassion for people who  
6 have a mental disease, who are not themselves when they do  
7 something. Something he may have committed.

8 THE COURT: No one has said he has a mental disease.  
9 We'll hear from the psychologist. I get a lot of reports and  
10 overstate it.

11 Have you read the report?

12 JARED LEVINE: I haven't read the report, but I spoke  
13 to his doctor.

14 THE COURT: We shouldn't overstate what the facts on  
15 the record are at this point.

16 JARED LEVINE: Absolutely. My only point is that the  
17 person who is sitting here now I don't think is the same person  
18 who was committing these crimes and I would ask for leniency on  
19 his behalf.

20 THE COURT: I appreciate your time in writing the  
21 letter. I hope everything is all right with your sister.

22 JARED LEVINE: Thank you.

23 MR. SOSHNICK: Your Honor, with your permission Joseph  
24 A. Romano, Esq., would like to address the Court.

25 THE COURT: Yes.

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1 JOSEPH A. ROMANO: Good morning, your Honor. Thank  
2 you for permitting me to speak.

3 THE COURT: For the court reporter just so she gets  
4 the correct spelling.

5 JOSEPH A. ROMANO: Romano, Joseph A., R-o-m-a-n-o.

6 I have known Jason for many years now. I am his  
7 employer. I employed him after his arrest. Not that I am in  
8 the best position to know everything about him, I felt  
9 compelled to believe in him and let me tell you why, Judge. I  
10 have been an attorney for 25 years. That really started when I  
11 was about five years old. I was with my father who is still  
12 alive who is going to be 84 next week who was an attorney  
13 admitted since 1952. My father taught me a lot of things. He  
14 taught me about the good and about the bad. I have seen some  
15 bad people, very bad people, Judge. They wrote books about  
16 them. But I also have had the unique opportunity in seeing  
17 things and seeing people that interact on a daily basis --  
18 politics, life struggles. You start to pick up on things. You  
19 pick up on things that are very important to other people.

20 I was in comp court in Yonkers. That is basically my  
21 bailiwick. I am a Yonkers guy. My father is from Yonkers. My  
22 brothers are all attorneys and the Romano family is well known  
23 in Yonkers. I was there and I was doing my cases and I saw  
24 this almost like a whirlwind come in one day. I said, Who is  
25 this kid? Who does he think he is walking into my place acting

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1 like this? He talked to his clients and what I saw was every  
2 one of their faces lit up with hope and hope is a very  
3 important thing in this life that we live. I believe that you  
4 are very sensitive to that that as long as we instill hope in  
5 people that the life that can be very difficult and the trial  
6 and tribulations that we do go through makes it a lot easier.

7 And over the years I got to see him and I always said  
8 to him, Listen, when you get tired of making money with those  
9 big shots in New York why don't you come work with me and  
10 really learn how to work. An opportunity arose, Judge. With  
11 every bad thing, something good can come out of it. That is  
12 what I believe in. So when he was arrested and I reached out  
13 to him and I said, Listen, Jason, I know you have issues,  
14 problems. You come with me, work with me, you come on to my  
15 roof. What we believe, and I told him, I don't care about the  
16 money. I just care about the people. That is what I was  
17 raised to believe in and that is what all the Romanos believe  
18 in because that is what my father instilled in us as well as my  
19 mother. We sacrificed for the good of the people.

20 He never missed a day of work. He worked 100-hour  
21 weeks. He would challenge me and he would call me at 10:00 at  
22 night. Something like my father would do and still does to me,  
23 Are you still working? Are you still working? And we've had a  
24 lot of fun together the last 20 months working and trying to  
25 get through this problem of his.

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1           So, Judge, I've tried some cases. I've been in front  
2 of your colleagues, but previous to your time there was a Judge  
3 Schartzberg up in White Plains. That is where I was in federal  
4 court. He was a bankruptcy judge. There was another judge,  
5 Charlie Bryant. And those judges from my experience they  
6 understood the rules. They knew what they had to do and they  
7 also weighed the facts and circumstances of each case. I hear  
8 what you are saying, Judge. I listen to the things that you  
9 say. I understand your concern as a lawyer and what you are  
10 going have to portray out there, what is the general public  
11 going to say if you are lenient for this person. He did a bad  
12 thing. There is no question about it. I don't understand what  
13 he did.

14           What were you thinking? You were going into a world  
15 where these guys, they will eat you alive. They have the hot  
16 sauce waiting for you. You had no business being there. It  
17 was the wrong place. These guys eat you. They will eat  
18 everybody. That is what they do. They just don't understand.  
19 Money is their God. They don't understand about family and  
20 this. It is about money. You are in the wrong place, wrong  
21 time. I don't understand why you would go in that room. You  
22 went in that room.

23           I understand it hurt everybody. I am very angry  
24 because I wanted this kid to be with me so we could fight the  
25 fight because there are not too many fighters in this world. I

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1 watch. I know who is fighting. Most people just give up.  
2 They quit. He doesn't quit. We need these kinds of people  
3 that fight, have that leadership ability. Now he is going have  
4 to turn a page because obviously he is going to lose his  
5 license. The qualities that I see in him as a leader, as a  
6 fighter, as someone that instills hope in people, I am not  
7 going to let that go, Judge.

8 I understand you have to do your job and I understand  
9 what you are going to do, but I am not going to give up on this  
10 kid. I want you to think about your sentence, and I know you  
11 have already have, your Honor, but I believe in this kid. I  
12 have not stood up for anybody in 51 years, and I have  
13 represented a lot of criminals back in the day. I did a lot of  
14 criminal cases so I have an idea about what it is to represent  
15 criminal defendants. But this kid is special. One of the  
16 clients says he is special. He is a special kid.

17 He shouldn't have been in that dark place. He should  
18 not have been there. I am still angry at him. I am furious at  
19 him that he even ventured into these people's world. He had no  
20 right being there. I wish he came to me and said I need the  
21 \$32,500 because I would have written him a check and said, That  
22 is your bonus. You come work for me. But he don't do that. I  
23 don't know why. I cannot explain that. I understand there has  
24 to be a message conveyed out there because people have to have  
25 it. I was here for the Cutillo sentence, Judge.



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1 THE COURT: You were?

2 JOSEPH A. ROMANO: I shed a tear that day because I  
3 saw the pain of his wife who couldn't even speak. I was there.  
4 But this particular person, Jason Goldfarb, he is a little bit  
5 different. He shouldn't have been in that room. These other  
6 guys, that was their world. They understood.

7 THE COURT: Cutillo was recruited by Mr. Goldfarb.  
8 Mr. Goldfarb was his college roommate and targeted him because  
9 he was a source of information. I don't know if the folks who  
10 spoke know about this case. That is what happened and I  
11 reviewed what was done. I saw what happened. Cutillo is the  
12 not the guy with the hot sauce. Cutillo is the guy who Mr.  
13 Goldfarb targeted because he was a person with access to  
14 information that could be used for profit.

15 JOSEPH A. ROMANO: Judge, I disagree with you in one  
16 sense, Judge, Cutillo was in that world. Jason wasn't in that  
17 world. He was familiar with people in mergers and  
18 acquisitions. He knew these people with Wall Street. He  
19 didn't know about all the big deals.

20 THE COURT: Cutillo was a patent attorney at a law  
21 firm in New York.

22 JOSEPH A. ROMANO: Yes, Judge, at Ropes & Gray. I  
23 disagree with you.

24 THE COURT: I think I know a little bit more of the  
25 facts than you do.



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1 JOSEPH A. ROMANO: What I want to end with today,  
2 Judge, and what I want to indicate, Judge, those other judges I  
3 had mentioned earlier, they understood the rules and they also  
4 understood all the facts and all the things that could go into  
5 a sentence of this individual. And one in particular letter  
6 was from Father Vincent and he indicated he would hope that you  
7 would show compassion. And with all the things that are in  
8 front of you, which is not an easy case, it is a very complex  
9 case because you have a psychological report, you have the  
10 guidelines, family and friends, there is a way to fashion  
11 something that would show a strong enough message to the  
12 general public and what you want to accomplish and still show  
13 some compassion to this particular individual based on the  
14 circumstances, your Honor. I hope you do that.

15 THE COURT: Thank you.

16 MR. SOSHNICK: Your Honor, my client would like to  
17 address the Court.

18 THE COURT: He has a right to and obviously will. You  
19 said you --

20 MR. SOSHNICK: Dr. Kirwin to address the Court. That  
21 is what we're going to do now.

22 DR. KIRWIN: Dr. Barbara Kirwin, K-i-r-w-i-n.

23 Your Honor, I stand behind you with a lot of hats  
24 today. You obviously have read my report and I know because I  
25 have been before you in the past that you do really take the

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1 time to read the psychological reports and I very much  
2 appreciate that. So I am here in my forensic capacity because  
3 I truly believed as was indicated in the Probation report that  
4 there is an issue of a mental disease or defect that formed a  
5 diminished capacity, a damage to Jason's reasoning, to his  
6 thinking, to his ability to make decisions, to his ability to  
7 control his emotions and impulses.

8 I think you raised a very important point when you  
9 mentioned to all of the people who spoke that Jason was acting  
10 out of necessity. Well, one might say that everybody who  
11 commits an offense perceives that there is some necessity to  
12 that offense. To me as a forensic psychologist that is not the  
13 entire argument because I truly believe that if there was only  
14 the necessity of his family as dear and as stressed and as  
15 needy as they were, Jason would not be sitting here today. As  
16 far as I am concerned, what tipped it over, what allowed Jason  
17 to do something in desperation that was anathema to everything  
18 that he was brought up to believe in and everything that he  
19 professes was the fact that he is beginning to suffer from what  
20 ultimately ends up into a bipolar disorder, which we know is a  
21 biological genetically based disorder. It has been classified  
22 now as a biological disorder that cripples lives that in fact  
23 crippled his grandmother's life. So I am not going to go down  
24 that path of being the forensic psychologist today. It is in  
25 the report.

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1 I stand in front of you today as a clinical person who  
2 has treated Jason very extensively sense I met him and as a  
3 former parole officer who has worked for keeping people  
4 rehabilitated in the community. What I want to say is that  
5 extraordinary in this case, aside from the fact that in my 30  
6 years I have never saw a courtroom packed like this, is the  
7 cooperation and the teamwork and the networking that went on  
8 between myself and Jennifer Powers, his pretrial probation  
9 officer, and Katrina Minus-Shepherd the probation officer who  
10 did the presentencing report. I believe it was a model of  
11 community, dual supervision. And as a clinician I see that it  
12 is the absolute best treat modality to prevent him going down  
13 the path of developing this more severe genetic illness. And  
14 the parole officer in me says this is the piece that is going  
15 to stop recidivism. We controlled the mental illness aspect,  
16 we're not going to have this kind of behavior anymore.

17 THE COURT: You think there is a prospect of  
18 recidivism?

19 DR. KIRWIN: I don't think so. Not in terms of his  
20 character. In terms of what caused this offense, Jason keeps  
21 everything very, very closely inside him. In fact, the reason  
22 he came into therapy was because his pretrial probation officer  
23 Jennifer Powers noticed there was agitation, depression,  
24 irrationality. In fact, I am sure you've heard the  
25 prosecution's wiretap tapes and she also was privy to them,

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1 they are like a textbook for hypomania, which ends of as  
2 bipolar disorder. There is grandiosity, there is excessive use  
3 of expletives. There is --

4 THE COURT: If that is true then virtually everybody  
5 in this case is suffering from the same disorder.

6 DR. KIRWIN: I was at the Cutillo sentencing.

7 THE COURT: Did you listen to the tapes?

8 DR. KIRWIN: Yes.

9 I was at the Cutillo sentencing I read a lot of  
10 material in that case and it is just -- it doesn't reach the  
11 level of a diagnostic entity.

12 THE COURT: I am talking about most of tapes that  
13 relate to the subject matter that you've been talking to or  
14 conversations between Mr. Goldfarb and Mr. Goffer.

15 DR. KIRWIN: Yes.

16 THE COURT: Would you suggest Mr. Goffer is suffering  
17 from the same disorder?

18 DR. KIRWIN: No. Because Mr. Goffer is talking about  
19 making money and all this. And in fact he did, Mr. Goldfarb,  
20 is talking about, Wow, I will be rich and I will be set for  
21 life. A point in fact \$32,000 that you write every penny of  
22 that to your parents does not make you rich for life and set  
23 for life.

24 THE COURT: The plan was not to make \$32,000. If you  
25 listen to the tapes, you would know that the plan was to do

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1 this repeatedly. The plan was to do this on a bigger scale.  
2 The plan was to put bigger placements on the trade that  
3 couldn't be placed that would yield much larger returns.

4 DR. KIRWIN: That is what is on the tapes and my  
5 understanding and my questioning in the therapy sessions with  
6 Jason is I do not believe, or at least he is not indicating to  
7 me, that was his intention, that his intention was to stop at  
8 that point, to pay off what his parents needed to get out of  
9 their difficulty.

10 THE COURT: Your report doesn't get into the specifics  
11 either.

12 DR. KIRWIN: No.

13 THE COURT: When costs were incurred, when payments  
14 were made, when diagnoses were made. Of course, some of the  
15 most damning tapes are from 2008.

16 DR. KIRWIN: Yes.

17 THE COURT: Well after the 32,000 was paid when there  
18 are plans to do more and no one speaks to that. Your  
19 suggestion is, what, at that point already received \$32,000 he  
20 now is just talking because it was his mental illness speaking,  
21 there was no real plan?

22 DR. KIRWIN: That is what I believed because I  
23 didn't -- I don't see him utilizing that information in any  
24 way.

25 THE COURT: There was information that was transferred

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1 in 2008.

2 DR. KIRWIN: Trading.

3 THE COURT: It wasn't Mr. Goldfarb who did the  
4 trading. The trades were done.

5 DR. KIRWIN: No, but he could have certainly  
6 purchased. If his intention was to continue to make these  
7 really big bucks on this, he certainly would have been able to  
8 trade on it.

9 THE COURT: The claim was never for Mr. Goldfarb to  
10 trade on it. The claim was for Goffer and others who could  
11 trade under the radar to make money and then pay money to the  
12 sources and Mr. Goldfarb. Mr. Goldfarb got a full third, an  
13 equal share with the sources. The plan in February and March  
14 of 2008 was to continue doing this on a bigger scale. There  
15 was information that was conveyed in fact at that time period.  
16 It didn't ultimately pan out the way the earlier trades had.

17 It is difficult to see based on the record how one  
18 could conclude that he didn't intend to go forward with the  
19 plan in February or March of 2008.

20 DR. KIRWIN: Well, if he had even continued to go  
21 forward with the plan, what I see for him at that point in time  
22 was really extremely manic behavior and we were seeing some  
23 examples of that earlier on. In the Probation report there is  
24 an indication or suggestion of the possibility of remanding him  
25 for his own safety at this point in time because both

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1 Mr. Minus-Shepherd and Powers were both seeing this kind of  
2 escalation of this manic, really out-of-touch behavior. It is  
3 almost when a car red lines.

4 THE COURT: In March of 2008.

5 THE DEFENDANT: No, at this time currently.

6 THE COURT: I am focused on during the scheme. What  
7 you said is that you don't believe that the tapes which reflect  
8 him talking about a lot more money are reflective of an actual  
9 intent to do that and I think that is extremely implausible and  
10 very hard to square with the evidence in the case.

11 DR. KIRWIN: I see it as more of his manic  
12 grandiosity, and I am not sure that if he had been stopped at  
13 that point if in fact that would have continued. Because I  
14 think if you listen to him on the tape, it is in no way what  
15 anybody hears about him in real life. You have seen people who  
16 know him as a colleague, his family members, clients and there  
17 is a consistent thread that runs through what this man's  
18 personality and character. What I have to look at as a  
19 clinician is okay what the character and then what is the  
20 mental disease or defect, like an overcoat that goes on top of  
21 that that warps or distorts the character that makes an  
22 individual do something that is so against their moral compass  
23 when they are in their right mind. And that is what I think we  
24 see with Mr. Goldfarb is the perfect storm and what I look  
25 towards is how do we in terms of punishing, in terms deterring

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1 all of those things very important and I am 100 percent behind  
2 that but how do we bring him back into the community a whole  
3 person, how do we keep him in the community, how do we make  
4 sure that not only is something like this never going to happen  
5 again, and I believe it never will just based on his character,  
6 but how do we when we have this opportunity to intervene to do  
7 what we know in the psychiatric profession is a way to stop  
8 this biological genetic disease from progressing such that he  
9 will never be able to help and assist in any way in any way to  
10 any of his clients. I know he will never be able to assist as  
11 an attorney that that is a concern I have. And the model that  
12 I see is what was accomplished with Probation, which is really,  
13 really comprehensive and extensive and lengthy probation, with  
14 house arrest, with alcohol treatment, with gambling treatment,  
15 with mental health treatment and medication monitoring and  
16 very, very extensive community service.

17 THE COURT: Thank you, Doctor. I appreciate it.

18 Mr. Tarlowe I think is going to get a chance to speak  
19 and then I will hear from Mr. Goldfarb.

20 Mr. Tarlowe.

21 The court reporter has asked for a break. We started  
22 at 10:00 and it is now noon. So why don't we take a 10-minute  
23 break.

24 (Recess)

25 THE COURT: We'll hear from Mr. Tarlowe at this point.



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1 MR. TARLOWE: Thank you, your Honor. For the reasons  
2 that we set forth in our sentencing submission, we do believe  
3 that a guideline sentence is appropriate and is warranted here.  
4 I don't intend to speak at any great length, but I would like  
5 to touch upon some of the factors the Court must consider that  
6 I don't think have really been addressed.

7 THE COURT: Look, I understand the factors but I do  
8 think also everybody has responsibility to address the  
9 different factors and objectives of sentencing and to respond  
10 to some of the points made because there are a group of people  
11 here who obviously will leave this courtroom and want to  
12 understand what happened. So I think it is important to  
13 respond as much as you can to the points they've made.  
14 Sometimes very, very powerfully and emotionally but thoughtful.

15 MR. TARLOWE: Certainly, Judge, I will try to do that.  
16 In doing that, I will touch upon the nature and seriousness of  
17 the offense, the actual role that this defendant played in that  
18 offense as well as the need for just punishment and general  
19 deterrence.

20 One thing I wanted to talk about was the defendant's  
21 motivation for engaging in the conduct. I think that is  
22 something that we heard a tremendous amount about from the  
23 letters that were submitted on behalf of the defendant as well  
24 as from people who spoke today on his behalf. We have heard a  
25 lot about how this was conduct that he engaged in out of

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1 necessity and how he had no choice. Was it his fault? To be  
2 clear, I don't dispute and I have no basis to dispute what we  
3 have heard about the circumstances that his mother and father  
4 faced. But the picture that has been painted of Mr. Goldfarb  
5 as somebody who engaged in this conduct not for any personal  
6 gain, not because of greed but only out of necessity and  
7 desperate circumstances, I think that is a picture is that very  
8 hard to reconcile with the picture that emerges from the  
9 evidence, most specifically the wiretaps, the phone calls.

10 The calls made clear that Mr. Goldfarb expressed no  
11 discomfort, no hesitation about engaging in this conduct. He  
12 didn't appear to have any reservations about it, but quite to  
13 the contrary was very active, enthusiastic, participant in that  
14 conduct. He is not somebody who appeared on those tapes to be  
15 doing this out of desperation. On the calls he repeatedly  
16 talks about how much money they can make. He clearly was very  
17 excited and eager when he learned from Mr. Goffer that Zvi  
18 Goffer had gotten a job at Galleon, this hedge fund where they  
19 could double, triple, quadruple the size of the trade, could  
20 increase the amount of money they were making and could conceal  
21 or camouflage what they were doing because Galleon was so big.

22 Mr. Goldfarb said things on those calls like, We're  
23 talking millions. Everyone one of us should be set for life  
24 within a year or two if things are played right. We're going  
25 to make a fortune this year. Then he talks about how he spent

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1 the money the \$32,500 that he got and he says to Zvi Goffer, I  
2 am at the point where I need to refill, Dude. I need another  
3 one. I got to refill. Again, it doesn't sound like somebody  
4 who is doing this out of desperation.

5 He also had many opportunities to stop the conduct  
6 along the way. This was not a momentary lapse in judgment.  
7 Several people have referred to it as a mistake. This wasn't a  
8 mistake. This was a conscious decision that he made repeatedly  
9 over a period that spanned nearly a year from the summer of  
10 2007 to at least May of 2008. I think respectfully I would  
11 suggest to the Court that Dr. Kirwin's suggestion that that  
12 talk was -- certainly there was some exaggeration on those  
13 calls. I don't dispute that. But the suggestion that that  
14 talk did not reflect the actual plan that they had is just  
15 belied by the evidence.

16 THE COURT: You attached several transcripts and you  
17 brought the recordings?

18 MR. TARLOWE: Yes, your Honor.

19 THE COURT: I may ask you to play one of those later.

20 MR. TARLOWE: Certainly. But as late as March 2008  
21 Mr. Goldfarb is providing information about Clear Channel. The  
22 Court is familiar with that evidence. As the Court I am sure  
23 recalls in March 2008 that is when the Ropes & Gray lawyers  
24 actually got the information wrong. Zvi Goffer was in a panic  
25 about public reports that the deal was collapsing. He turns to

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1 Mr. Goldfarb, Goldfarb goes and meets with the lawyers and  
2 there is a series of events through the night and into the next  
3 day. And then in May 2008, in mid-May 2008, he began relaying  
4 additional information about Clear Channel and at that point  
5 the Clear Channel deal did close. So this is conduct he did  
6 engage in through at least May 2008 that related to a number of  
7 stocks and it was repeated time and time again.

8 I think another fact that is difficult to reconcile  
9 with this picture that has been painted as somebody acting out  
10 of desperation is that in February 2008 it is our understanding  
11 that Mr. Goldfarb actually got a new car in February 2008. He  
12 got a new BMW 528. Obviously nothing wrong with that, but I  
13 just think it is difficult to reconcile that with somebody who  
14 is supposedly doing this to help his parents and we have heard  
15 this was somebody who didn't have a lavish lifestyle, that  
16 every penny went to his parents. To be clear, I cannot trace  
17 those dollars. It may be that the \$32,000 went to his parents.  
18 I don't know but it does appear that he attained a new vehicle  
19 that I suspect costs upwards of 35 or \$40,000 in February 2008  
20 while was still engaged in this conduct. So if he was doing it  
21 out of necessity, certainly he could have sought a more  
22 economical car and used that money for better use.

23 I also want to talk a little bit more about the  
24 defendant's role in the offense and some of the specifics about  
25 the conduct here. I think a lot of the speakers here today who

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1 obviously spoke from the heart and had very nice things to say  
2 about Mr. Goldfarb, I think they have the window into one  
3 aspect of his life and it certainly is an aspect of his life  
4 that the Court should and will I am sure will consider when the  
5 thinking about the history and characteristics of the  
6 defendant, but that is only one aspect of the defendant's life.  
7 And I think that a lot of the people who spoke do not have a  
8 window into another aspect of his life that your Honor has been  
9 privy to and that is the offense conduct. I just suspect that  
10 a lot of these people are not familiar with the facts of what  
11 the crime entailed and what Mr. Goldfarb himself did.

12 Mr. Goldfarb, as the Court pointed out, recruited the  
13 Ropes & Gray lawyers into this scheme. He helped corrupt those  
14 attorneys. He was paid the same as the Ropes & Gray lawyers  
15 for providing information to Zvi Goffer. He also had a greater  
16 understanding of the scope and magnitude of the scheme than the  
17 Ropes & Gray lawyers did. He didn't know all of it, but he  
18 certainly knew Zvi Goffer and Emanuel Goffer were using the  
19 information and he had a better understanding of the magnitude  
20 of the trading because he was in direct contact with Zvi Goffer  
21 and Zvi Goffer talked to him about that. He also provided both  
22 sets of prepaid phones to Ropes & Gray lawyers, which he got  
23 from Zvi Goffer, and he gave instructions to the Ropes & Gray  
24 lawyers, Mr. Santarlas and Mr. Cutillo.

25 He said things so Zvi Goffer on the phone, like, when

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1 they are talking about information that had come from the Ropes  
2 & Gray lawyer, Mr. Goldfarb said, That is me drilling it into  
3 them. The last one never would have happened if I don't press  
4 them and drill them every single time. There was another call  
5 where Zvi Goffer was telling Goldfarb what to say to the Ropes  
6 & Gray lawyers and Mr. Goldfarb said let me write this down.  
7 You have to bullet point everything for these guys. So he was  
8 a very significant and active participant in the criminal  
9 conduct and his roles with a significant one. We don't think  
10 his role was merely one of a go-between as has been  
11 characterized by Mr. Soshnick.

12 I think it is also worth noting that it is clear that  
13 Mr. Goldfarb has been very dedicated to his clients and has  
14 produced what appeared to be extraordinary results for some of  
15 them. We don't take issue with that and we think that is  
16 something that the Court should and can take into account. But  
17 as a lawyer, the defendant also had other obligations, other  
18 ethical obligations besides the duties that run to his clients.  
19 Every lawyer has a duty to abide by the law like everybody else  
20 and lawyers actually have a duty and ethical obligation to  
21 report misconduct of other lawyers. Far from doing that Mr.  
22 Goldfarb actually actively encouraged and facilitated the  
23 commission of crimes by other attorneys as well.

24 Certainly a lot of the people who spoke it is very  
25 moving to listen to them. It certainly was. It is obvious and

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1 very clear that another category of victims in this case is Mr.  
2 Goldfarb's family and his friends. They clearly have been hurt  
3 by this and will continue to be hurt by it. Unfortunately I  
4 think a reality of the criminal justice system is that when  
5 people commit crimes and get punished for committing those  
6 crimes that punishment impacts not only the defendant him or  
7 herself but the friends and family of the defendant and that is  
8 a real and unfortunate consequence of engaging in criminal  
9 activity.

10 I think there are also other categories of victims who  
11 we don't get to hear from, the investors who are hurt by this  
12 type of conduct. We don't have somebody to come in and  
13 represent those investors. This type of conduct undermines the  
14 integrity of the market. It undermines investors' right to a  
15 fair playing field, a fair market. We don't get to hear from  
16 those people. There are a number of different categories of  
17 victims some of which the Court has heard from but some of  
18 which the Court does not get to hear from. I think it is also  
19 important that the Court takes into account the impact that  
20 this conduct has on those victims as well.

21 I want it talk very briefly about the efforts tod  
22 cooperate to make sure the Court has a clear picture of what  
23 happened. From an early point Mr. Goldfarb did through his  
24 attorney express a desire to cooperate. There was a proffer  
25 very early on that related to other unrelated activities. The



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1 proffer did not cover the conduct at issue here because the  
2 government's view was that it wasn't interested in Mr.  
3 Goldfarb's cooperation. As the trial approached, Mr. Goldfarb  
4 obtained new counsel, Mr. Soshnick. Mr. Soshnick again  
5 reiterated his interest in cooperating that we didn't have an  
6 interest in Mr. Goldfarb's cooperation.

7 After repeated discussions and persistence frankly of  
8 Mr. Soshnick, we agreed that we would meet with Mr. Goldfarb  
9 for a proffer with the understanding that we viewed it as  
10 extremely unlikely that we would agree to use his cooperation  
11 to give him the 5K letter. We met for two proffers on that  
12 understanding. Mr. Goldfarb did sit with us for a number of  
13 hours and answer a lot of questions. We made the decision that  
14 we did not feel that we needed his assistance and we didn't use  
15 it.

16 Two things that did come out of the proffers: One,  
17 Mr. Soshnick mentioned there was a piece of paper with Zvi  
18 Goffer's handwriting that Mr. Goldfarb gave us. We did not  
19 introduce that as an exhibit at trial. However, Mr. Goldfarb  
20 did provide information about a safe deposit box that he had  
21 opened I think within a day or two of the acquisition being  
22 announced. We were then able to obtain the records of that  
23 safe deposit box and we did introduce those records at trial.

24 I think the only other thing I wanted to say, Judge,  
25 is in terms of general deterrence, something that the Court has



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1 alluded to, is something that is very important here. This is  
2 a crime that presents a potential for very significant  
3 financial rewards. It is also a crime that is difficult to  
4 detect and difficult to prosecute. I think especially in light  
5 of those realities, it is important that there be substantial  
6 punishment for people who are caught engaging in this so that  
7 as other people think through that calculus in their mind of  
8 the potential benefits and one hand, the difficulty of the  
9 government detecting and prosecuting people, I think it is  
10 important that people faced with these types of choices  
11 understand there are very substantial penalties for this type  
12 of conduct.

13 Unless the Court has any questions, I don't have  
14 anything else.

15 THE COURT: With respect to forfeiture, it is not  
16 restitution, it is just forfeiture?

17 MR. TARLOWE: Just forfeiture, your Honor. We have a  
18 proposed order of forfeiture. The amount is the amount of the  
19 stipulated gain in the plea agreement, which is \$1,103,131.

20 THE COURT: All right.

21 Mr. Goldfarb, you have a right to address the Court.  
22 You don't have to. As you know, you have a right to and you  
23 are welcome to. I guess you are at the point in the proceeding  
24 now that that is all that is left before I impose sentence.

25 THE DEFENDANT: Do you want me to sit here or stand

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1 here?

2 THE COURT: Whatever you are comfortable doing. Speak  
3 slowly so the court reporter can get it all down. You can move  
4 the box of tissues.

5 THE DEFENDANT: I have a written statement prepared,  
6 but some of the questions that you asked some of the people and  
7 some of the things that you seem troubled by as well, I am also  
8 troubled by. It seems that you are also focusing on the time  
9 line. I don't think anyone had specifically correct.

10 I was approached by Zvi Goffer around 2006 and all he  
11 told me at the time was, Jason, listen, you are an attorney if  
12 you know anyone that does corporate type stuff like that, let  
13 me know. He didn't allude to why or anything like that at the  
14 time. It wasn't until actually probably around 2005. Then in  
15 2006 I had been ran into Cutillo. We were, I think, at a card  
16 game and he had said to me his firm merged with another firm  
17 and he is doing some type of corporate law. I said, You have  
18 to meet my friend Zvi he had mentioned something. It was after  
19 that. Still at the time I didn't know what Zvi was talking  
20 about.

21 Then we went to a dinner and that is when Zvi had laid  
22 out this idea. This is back in 2006. And both Cutillo and I  
23 talked about it. I wasn't really going to be a player in this  
24 thing. Cutillo, listened and said, Oh, not really interested.  
25 It wasn't until the time when all this other stuff was going on

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1 with my parents and my parents' woes and my mother's condition  
2 that right around that time is when all of a sudden I got this  
3 phone call from Cutillo. I followed what happened at the trial  
4 and I followed and I would be able to read about in the papers.  
5 I still think it is somewhat wrong. I believe I would never  
6 come here and lie today. It could only hurt me.

7 My understanding the way it was explained to me is  
8 that Mr. Santarlas actually approached Mr. Cutillo saying that,  
9 listen I have access to this information and I am going to  
10 trade this information on my own. And that is when Cutillo who  
11 had his own personal circumstances going on had said to him,  
12 Wait, I think there is a better way and that is when it all  
13 started happening around that time. So the time line that is  
14 given I think is a little bit skewed. I am not making any  
15 excuses. I just wanted it to be clear exactly what was going  
16 on.

17 Shortly to rebut the thing about the car. My company  
18 at the time, that is the car they gave me. It was through  
19 them. It really didn't cost me that and the parking was paid  
20 on by my firm at the time.

21 Your Honor, I stand before you a broken man. I make  
22 no excuses for my conduct and I take full responsibility for my  
23 actions. I can promise you two things: The first thing that  
24 you have never had a defendant stand before you more repentant  
25 and sorry. I have and continue to apologize not only to all my

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1 family, friends and clients but to your Honor, the government,  
2 and all those harmed in any way by my actions.

3           Next I can assure you that there as an absolute  
4 impossibility that you or ever judge will see me again as a  
5 defendant in a criminal action. I know the saying is there are  
6 no certainties in life, but I swear to your Honor this in fact  
7 a certainty. It is not easy for me to stand here and speak in  
8 front of all these people. I am humbled, appreciative but feel  
9 very undeserving of all their love and support. Family has no  
10 choice but to love and support you, but the amazing outpouring  
11 I received from all my clients is quite possibly the only thing  
12 that has gotten me through this time. On many dark days they  
13 were reminding me of some of the good I managed to do  
14 throughout my life and for this I thank them.

15           As my family, friends and clients who are here today  
16 confessed, I have always held myself to a very high standard in  
17 all aspects of my life for a very long time. I know I let  
18 myself and so many others down and nobody can or will punish me  
19 more than I have and will continue to punish myself. Over the  
20 past 20 months, I began to take steps and look into how I got  
21 myself into this situation and ensure that it never happens  
22 again. I dedicated myself to treatment with Dr. Kirwin, who  
23 surprisingly I have been able to open up to and I found my time  
24 with her extremely help. You have but only one life to live  
25 and I have forever tainted mine. I set out to help those I

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1 love but ended up making things so much worse. I will never  
2 forgive myself for the pain and hurt I have caused so many  
3 people close to me.

4           However, the biggest punishment of all to me is that I  
5 am being stripped of my ability to represent my clients who I  
6 consider family and hold so dear. As my mother can tell you,  
7 since I was about eight years old I had always wanted to be an  
8 attorney. Against all odds, I became one. I devoted the time  
9 I spent as an attorney making sure my clients always got what  
10 they deserved and were never taken advantage of. To me there  
11 is no worse punishment than being told I can no longer do that.

12           From the start of my situation, I have tried to do  
13 absolutely everything in any power to make amends for my  
14 actions. This includes proffer sessions with the government,  
15 turning over any and all evidence I had access to to them  
16 immediately and I have and I will continue to cooperate with  
17 the SEC in their ongoing investigation. After my sentence here  
18 today, your Honor, I assure you that I will not stop trying to  
19 help. Everyone speaks of general deterrence and I agree that  
20 is definitely an important goal. My goal would be to deter  
21 others in society from making the same mistakes I have. If the  
22 Court will permit me I would like to speak at law schools and  
23 perhaps colleges to discuss the mistakes I have made and try to  
24 ensure that other people and lawyers not travel down the same  
25 path as I did and make the mistakes I have. I feel there are

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1 many ways to send a message to society and perhaps this will be  
2 the strongest way for me to do that.

3 Judge, if you are willing to take a chance on me, I  
4 will promise you will never regret it. I will tackle this  
5 challenge and responsibility of everything I have and I swear  
6 to your Honor you will not be disappointed and I hope that one  
7 day I can become an example of someone who was able to gain  
8 respect of society and those around him including your Honor.  
9 Thank you.

10 THE COURT: Thank you, Mr. Goldfarb.

11 Mr. Goldfarb, ladies and gentlemen, let me tell you  
12 what we'll do now. At this point I will state the sentence I  
13 intend to impose and I will offer my reasons for it. I will  
14 then after that ask the lawyers if there is any legal  
15 impediment or any reason under the law that I can't impose the  
16 sentence that I have in mind. If there is none then I will  
17 formally impose sentence.

18 In our system judges explain their reasons for  
19 sentencing. There is no need for any defendant, there is no  
20 need for any person in a courtroom to guess what a judge is  
21 thinking at the time of sentencing. Judges are obliged to  
22 provide their reasons, to provide an explanation as what they  
23 considered, what they weighed and what mattered to them in  
24 reaching a determination that is of obvious importance to the  
25 defendant but also has serious, serious repercussions for other

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1 people, family members, friends and others.

2 So it is important for the Court to do this. It is  
3 important for the Court to weigh the different objectives of  
4 sentencing because at the end of this proceeding each of you  
5 will leave and you will have a sense as to what happened here  
6 today and whether this system works or whether it is worthy of  
7 the name court of law and court of justice. It is impossible  
8 that everyone will leave this courtroom in agreement with the  
9 sentence that is imposed. Just listening to the two lawyers I  
10 think it makes it clear a range of opinions as to what would be  
11 appropriate and there is nothing I can say that will make  
12 everyone in this room happy.

13 The goal I think or any goal of sentencing is to make  
14 sure that people even if they disagree with the sentence will  
15 understand and perhaps appreciate that this process was  
16 careful, that it wasn't callus, that it wasn't mean spirited,  
17 reflexive, that it was thoughtful and that it was careful.  
18 That is what I think the most one can ask for a human  
19 institution and that is what I will endeavor to do now.

20 There are different objectives of sentencing, some of  
21 which mentioned by the lawyers and others today are first of  
22 foremost what we spent a lot of time talking about, facts and  
23 circumstances of Mr. Goldfarb's life, the defendant's personal  
24 history. That is important because no two individuals are  
25 alike. They are all unique. And each has to be considered as



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1 an individual and the sentence imposed has to tailored to that  
2 individual.

3 Another objective of sentencing, though, one the Court  
4 has to consider, Congress has directed courts to consider it,  
5 are the facts and circumstances of crime or crimes involved. A  
6 court has to impose a sentence, and Mr. Goldfarb know this  
7 because we talked about this at his guilty plea, a court has to  
8 impose a sentence that is going to reflect the seriousness of  
9 the crime. That is going to promote respect for the law and  
10 provide a just punishment for the crime. Some of the letters  
11 that I received, and I do want to again tell you how much I  
12 appreciated the letters, the thought and time that went into  
13 them, but several said that the process should not be punitive,  
14 that it should be much more about rehabilitation and  
15 recognizing the need to give a second chance to the defendant.  
16 Here the latter part has to be part of the equation, but there  
17 is a punitive component to sentencing. There is a notion of  
18 just punishment that a crime that is serious requires  
19 punishment because that punishment is crucial to promoting  
20 respect for that the law. So that is something the Court has  
21 to consider.

22 So Mr. Tarlowe focused on the facts of this crime,  
23 which was not a spontaneous crime. It was a crime over many,  
24 many months with many individuals involved. The details  
25 matter. So that is something that the Court has to focus on



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1 and cannot lose sight of even though obviously the things that  
2 friends and family members have to say are more urgent to them.  
3 The Court has to balance these other things.

4 Another objective of sentencing the Court has to  
5 consider is the need to deter the defendant and others from  
6 committing crimes like this in the future, both specific  
7 deterrence and general deterrence. This is something that  
8 courts have to take seriously. Sometimes it is hard to  
9 quantify general deterrence. It is very hard to know what  
10 effect a sentence on one individual on one day in a courthouse  
11 in New York is going to have on other people throughout the  
12 land. It is difficult to quantify. I think we all know  
13 intuitively that there is something to that that sentences  
14 imposed, particularly in cases that are being paid attention  
15 to, do have an effect. They do have an impact on others and  
16 sometimes on entire industries. That is a something the Court  
17 has to consider. Sometimes that factor weighs more heavily  
18 than in cases where general deterrence is not a major  
19 consideration, other cases where general deterrence is a major  
20 consideration by virtue of the circumstances of the case. So  
21 that is something the Court has to take into account.

22 The sentencing guidelines are another thing that the  
23 Court has to consider. That is not to say that sentencing  
24 guidelines should be slavishly followed. They are not  
25 mandatory nor should they be in my view. Certainly no one I

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1 think could accuse me of slavishly following the sentencing  
2 guidelines. I depart below these guidelines more than  
3 50 percent of the time more than most of my colleagues in this  
4 district. Look, every sentence is individual so I don't think  
5 that statistic means much, but I understand my ability to go  
6 below the guidelines and I understand the guidelines are just  
7 one factor to be considered. They are an important factor  
8 because the goal of these guidelines, the goal of the process  
9 of looking at individual crimes and applying objective criteria  
10 based on the amount of gain, based on other factors involved in  
11 the offense is to ensure that people who are similarly situated  
12 or roughly equivalent get roughly the same punishment. There  
13 is something that undermines the credibility and the respect  
14 for which people owe their court system if sentences vary  
15 wildly depending on simply who the judge is, who the lawyers  
16 are or who is the defendant happens to be or know. That is  
17 something courts clearly have to take into account.

18 We've talked about these and I have taken them into  
19 account. I told you what the range is, which is under the  
20 guidelines 37 to --

21 MR. SOSHNICK: 46.

22 THE COURT: -- 46 months. It is a significant amount  
23 of time by any imagination.

24 Another factor I have to consider are the needs of a  
25 criminal defendant. There are many defendants who appear in

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1 front of me who have medical needs, substance abuse problems  
2 and other things that they need to be considered in fashioning  
3 an appropriate sentence.

4 The hard thing about being a judge is balancing all of  
5 these factors. If the only consideration were the defendant  
6 and his history or the likelihood of the defendant returning to  
7 crime, it would be easy. The only consideration was the impact  
8 that a sentence would have on a defendant's family. It would  
9 be easy. There is a reason why parents and siblings and  
10 spouses and friends are not asked to impose sentence on  
11 defendants. They can't. They are too close. They cannot put  
12 aside the obvious emotional connections, the obvious ties that  
13 they have to a defendant. The hope is that a judge who is  
14 unbiased, impartial will be able to weigh these different  
15 factors, balance them, to fashion a sentence that does justice  
16 to each even though there is often tension between and among  
17 the different objectives.

18 So that is what I am charged with doing. It has been  
19 a difficult task. I will not lie to you. It is something I  
20 thought a great deal about. I spent a lot of time thinking  
21 about it, reviewing the submissions, reviewing other cases and  
22 sentences imposed in those case. I will start with the  
23 defendant's personal history, the facts and circumstances of  
24 Mr. Goldfarb's life. It is a very long presentence report. It  
25 is 30 pages long as I mentioned. There are numerous letters in

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1 this case, 60 or so. It is about as many as I have received in  
2 any case. It is not just the number of them, the quality of  
3 them. They are well written and very articulate. It is from  
4 people who are speaking from the heart. So I appreciate as I  
5 said this multiple times the time that went into those letters.

6 From those letters, from the presentence report  
7 certain things are obvious to me. First, that Mr. Goldfarb was  
8 and is a good son. There is no question about that. It is  
9 heartbreaking to listen to his parents speak. Naturally this  
10 has been overwhelming for them and I am sympathetic as a parent  
11 myself. I can sympathize without understanding what they are  
12 going through. I sympathize. There is no question he has been  
13 a good son. He loves his parents and respects his parents and  
14 he has treated them well. He hasn't done anything to shame  
15 them up to this point and he has been a model son. I think  
16 that is worth noting. It is an admirable quality that will not  
17 change after today. It will continue. And it is to your  
18 credit, Mr. Goldfarb.

19 Another thing that is obvious from these letters is  
20 that Mr. Goldfarb is a good lawyer, a passionate lawyer, a  
21 lawyer who cares about his clients and who enjoyed the  
22 profession and who did well in the profession. I don't think  
23 there is any question about that. That is the truth.

24 Another fact that I don't think can be denied is  
25 Mr. Goldfarb say nice person. Certainly I see nothing to

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1 suggest otherwise. He has been respectful every time he has  
2 been in court. Today is no exception. More than that the  
3 people who know him speak to that quality again and again.  
4 Even the tapes, which are damning evidence of the crime, do  
5 reflect a person who is a decent guy on a personal level,  
6 someone who is likeable, who is charismatic, fun, who is nice.  
7 So I don't think anyone can dispute that.

8 Another fact that I think cannot be disputed obviously  
9 there are many, many people who care about Mr. Goldfarb.  
10 Almost unprecedented, perhaps unprecedented in any experience  
11 to have a sentencing proceeding attack this many people, this  
12 many people who wish to speak and address the Court, this many  
13 people who have been here all day, all morning because they  
14 care about Mr. Goldfarb and what happens to Mr. Goldfarb. That  
15 is to his credit certainly. What is also obvious to me is that  
16 those people and others who wrote letters, those are people who  
17 care about Mr. Goldfarb and are suffering. This is something  
18 that has been painful. It is obvious to me. It is not lost on  
19 me and it is something that is moving. It is natural to see  
20 that and want to help, want to do something to alleviate that  
21 pain. I can understand that. It is heartbreaking to read the  
22 letters and hear people speak and certainly possible to be  
23 moved.

24 Again, this has to be put in perspective as well. The  
25 facts and circumstances of Mr. Goldfarb's life require the

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1 Court to consider some other facts, which are first of all I  
2 sentence many defendants. There are many defendants sentenced  
3 in this courthouse and courthouses like it all over the  
4 country. Very few resemble Mr. Goldfarb in many different  
5 ways. Mr. Goldfarb has had tremendous advantages that most  
6 defendants that I sentenced haven't had. That is a fact. I  
7 think anyone familiar with this system would have to readily  
8 agree with that. Mr. Goldfarb had and has loving parents.  
9 From the moment of his birth, he has had parents devoted to  
10 him, sacrificed for him, made it their business and life to  
11 ensure that he had opportunities that they didn't have and that  
12 he would be able to reach his full potential as a man. That is  
13 a rarity in life. We all know that. It is more than a rarity  
14 in federal court. Mr. Goldfarb was blessed to have that. He  
15 wasn't born a millionaire. He got something better than the  
16 lottery, he got parents who care. Not just care, I mean love  
17 him with a devotion that is hard to see and not be moved by it.

18 Another thing that Mr. Goldfarb has had is an  
19 education. Very few defendants who both have the aptitude and  
20 ability and the opportunity to get a quality education such as  
21 Mr. Goldfarb got from grammar school, high school and college  
22 and on to law school. That is unusual that a person with that  
23 sort of talent and that sort of opportunity to realize and take  
24 advantage of that talent shows up in federal court. Much more  
25 common than people who do not have the aptitude or worse don't

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1 have the opportunity to exercise that aptitude because of  
2 circumstances of their birth and lives. Mr. Goldfarb had that.  
3 That is a tremendous advantage.

4 Health. Mr. Goldfarb has had unusually good health.  
5 He has been able to play sports. He has a body that does what  
6 he tells it to. He is able to work long hours and still able  
7 to maintain relationships. There has been talk about the  
8 psychological report, which details test results as well as  
9 certain conclusions. I think Dr Kirwin for it. It was  
10 helpful. But the reality is there are many defendants who  
11 appear in this courtroom have much more severe mental health  
12 issues than Mr. Goldfarb, who have debilitating mental health  
13 issues that they are unable or unwilling to deal with, most  
14 cases unable because of their circumstances, and whose problems  
15 are such that even if they have the resources it would be  
16 difficult to deal with them because they are difficult,  
17 difficult problems. Mr. Goldfarb although he could have a  
18 drinking problem, he is not under the kind of addiction that is  
19 very common with defendants seen in this courthouse.

20 Finally, Mr. Goldfarb has a profession. Not just a  
21 job, a profession, a career. A career that entitles him to do  
22 something he enjoys. He does something that is satisfying,  
23 something that entitles him to make a pretty good living. It  
24 is a profession that carries with it prestige, respect and the  
25 prospects for more and more succes. He was good at it,



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1 successful at it, he was moving up and he was assured more  
2 success. That is unusual. Material success can be measured a  
3 lot of different ways. Mr. Goldfarb, although early in his  
4 career had already achieved pretty significant amount of it.  
5 He was living on the Upper East Side in the neighborhood among  
6 the wealthiest zip codes in America. He wasn't a millionaire,  
7 but he was doing well. And as long as he continued to apply  
8 himself, as long as he continued to be ethical and law-abiding  
9 there is no reason to think that he would do better and better  
10 and he would not have a very comfortable life, perhaps even  
11 wealth.

12 To listen to the clients of Mr. Goldfarb's speak I am  
13 very confident this is a person who was going to be very, very  
14 successful in the law. It was a matter of time that he was  
15 going to make a good living at it and he was already making a  
16 good living at it on the grand scheme of it. He wasn't an  
17 investment banker, but he was making a good living. If he had  
18 loans, those loans were not insurmountable.

19 He also was part of a profession and that is  
20 something. That is something. Mr. Goldfarb has spoken about  
21 that. That is valuable. Part of that profession requires one  
22 to behave ethically and lawfully. It is a profession that  
23 demands ethical behavior from its professions. Mr. Goldfarb  
24 took ethics courses in law school. He had to take an ethics  
25 examine that he had to pass in order to be admitted to the bar.



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1 He had to pass through a character and fitness examination in  
2 order to be received into the New York bar as part of the  
3 process of being admitted. He is required to take continuing  
4 legal education courses on ethics, a profession that demands  
5 ethical behavior and conduct.

6 Mr. Goldfarb I think in the grand scheme of things had  
7 advantages that most people don't have. Although many of the  
8 qualities we talked about are to his credit. There are  
9 decisions he made that were good ones. He earned and worked  
10 hard. It is important to remember that in assessing the crime  
11 and decisions made by Mr. Goldfarb. He was one of the lucky  
12 ones. One of the winners in life.

13 The other thing or the next thing I have to consider  
14 is the facts and circumstances of this crime. As I said the  
15 sentence has to reflect the seriousness of the crime and  
16 promote respect for the law. For many months -- this is  
17 undisputed -- Mr. Goldfarb was one of the leaders, one of the  
18 movers of a sophisticated scheme that was designed to steal  
19 privileged information, confidential information from a law  
20 firm and its clients to be used to make lucrative inside trades  
21 by hedge fund managers and traders. That was the goal of the  
22 scheme and that was the purpose of this scheme, to steal and to  
23 profit from it. Theft from the rightful owners of the  
24 information, breach of fiduciary duties and ethical obligations  
25 and enrichment of the insider traders at the expense of those

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1 traders and investors who played by the roles who knew they  
2 were not entitled to trade on the basis of inside information.

3 This kind of conduct has consequences, consequences to  
4 the innocent investors who as Mr. Tarlowe said are not here who  
5 got suckered on the wrong end of an inside deal. In addition,  
6 it seriously and significantly undermines investor confidence  
7 in our financial markets. It breeds a cynicism that is  
8 palpable in this day and age. That is one of the things that  
9 came out of this case, it has demonstrated that this is a  
10 rigged game. It is not an illogical conclusion for someone to  
11 draw if they follow this trial and others like it in the recent  
12 past. There is a sense that sophisticated, powerful people are  
13 capable of bribing and stealing information that ensures them  
14 of profits. That is what this scheme was. It is about bribing  
15 and stealing. There is no way around it.

16 Mr. Goldfarb recruited Mr. Cutillo, his college  
17 roommate. We can quibble about how the conversations went, but  
18 the fact is it is a recognition that Mr. Cutillo had access to  
19 the information and that information could be valuable to Mr.  
20 Goldfarb's other friend Zvi Goffer. Mr. Goldfarb who  
21 encouraged those lawyers, Mr. Cutillo and Mr. Santarlas, to  
22 steal that information from their firm and from their firm's  
23 clients. I am not saying they were will was overborne. Far  
24 from it. They are guilty. One has been sentenced and the  
25 other will be sentenced. It was Mr. Goldfarb who willingly

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1     shuttled that information to Mr. Goffer. It was Mr. Goldfarb  
2     who shuttled the profits back to the sources and kept a full  
3     third of the bribe as it were.

4             What went to the sources was split three ways,  
5     two-thirds to the lawyers inside the firm who got information  
6     and one-third to Mr. Goldfarb. This is a serious crime. It is  
7     a serious crime and it has got to be treated seriously. This  
8     is not a momentary lapse in judgment. It is not an impulsive  
9     act. It is not stealing bread when you are hungry. It is just  
10    not what it is. It is impossible to say that. Mr. Goldfarb in  
11    your letter to me, which was a thoughtful letter and moving  
12    letter and I say just this one point or suggest that. I didn't  
13    focus on the rest of it. But what you said in your letter is,  
14    For a second in a weakened state I made a horrible decision,  
15    and that is not quite accurate.

16            You made a series of decisions over a long period of  
17    time that had consequences. You made the decision each time.  
18    It wasn't an impulsive decision. It wasn't a compelled  
19    decision. You went on doing this for months. This involved a  
20    clandestine meetings, secret prepaid phones that were obtained  
21    for the express purpose of carrying out this crime and evading  
22    law enforcement. No question about it. You and the others,  
23    Mr. Cutillo and all the others involved, knew exactly what you  
24    were doing. You didn't hesitate for minute in carrying out  
25    this scheme. You expected to make a lot money and the money

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1 paid out was not that great, \$33,000. But the plan was to make  
2 a lot more. The expectation was nobody was going to get  
3 caught.

4 There is no illusion this wasn't criminal behavior.  
5 Everyone knew it was criminal. Everyone knew if you get caught  
6 disaster follows. You get arrested, you get disgraced, you get  
7 disbarred, you get financially ruined and you go to jail.  
8 Everybody understood that but it didn't deter a single player  
9 in this process.

10 There is a tape here that Mr. Tarlowe alluded to in  
11 this record. I think it is worth playing the first recording.  
12 I think many of the people who spoke here today are not  
13 familiar with this case. There is no reason why I shouldn't,  
14 but this matters. This is what the conduct was.

15 Can you tee it up?

16 MR. TARLOWE: Certainly. Exhibit A.

17 THE COURT: Yes.

18 (Audio played)

19 THE COURT: This is February 2008. This is long after  
20 the first deal in the fall. This is obviously done with the  
21 expectation that they are going to be doing more deals and they  
22 are going to be bigger and they will make you and the other  
23 sources wealthy, hundreds of thousands of dollars. I don't  
24 think there is any question about that, at least not in my  
25 mind. So understanding the criminal nature of this scheme, you

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1 and Mr. Goffer were undeterred. Deterrence is another  
2 objective of the sentencing. The Court has to consider  
3 specific deterrence. The goal of the sentence on Mr. Goldfarb  
4 is to make sure he doesn't commit crimes in the future. I am  
5 not worried about that one. I think most of you recognize that  
6 there is no need to worry about that. I don't think he is  
7 going to engage in this kind of conduct again. He has accepted  
8 responsibility. I think he is remorseful.

9           So I grant that but I have to say I do think this  
10 constant repetition of the motivation as oversimplification as  
11 to how Mr. Goldfarb got into this crime is a little troubling  
12 to me. I think letter after letter basically stated the reason  
13 why Mr. Goldfarb got into this criminal conduct as though it  
14 was an isolated incident. And those who wrote the letters I am  
15 not faulting because you didn't know the facts and I think all  
16 you know is what you know from Mr. Goldfarb. It seems to me  
17 that on some level Mr. Goldfarb seems to have come up with  
18 something that makes it go down easier. This is an explanation  
19 that is easier to live with, but it is not the whole truth.  
20 There may be some truth to it, but it is a vast  
21 oversimplification and I think after a while letter after  
22 letter saying that it sort of felt like a campaign. If felt  
23 like a lobbying effort to get me to buy a set of talking  
24 points.

25           Look, I don't think that Mr. Goldfarb is going to

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1 commit additional insider trading in the future. I don't  
2 believe that. It does suggest that there is a little something  
3 to be desired from his understanding of what took place here  
4 and his acceptance of responsibility. General deterrence is of  
5 course what is more a compelling objective of sentencing here.  
6 obviously there has to be a sentence, a message sent to a  
7 broader audience. Inside trading as I said is destructive, it  
8 does real damage and it is highly lucrative. It is hard to  
9 detect and it is hard to prosecute. For that reason, it is  
10 important that when it is detected and when it is proven and  
11 prosecuted that the individuals involved be treated seriously  
12 and the penalties be severe because you have to send a message  
13 to people that they cannot do this. They cannot do this and  
14 then when they are caught just come up with excuses or reasons  
15 why they should be exempt from the penalties that come with  
16 criminal activity.

17 The conclusion that has to be drawn here is this  
18 conduct will not be tolerated. There are people around this  
19 country watching what happens in this case and other cases like  
20 it. So those engaging in this kind of conduct, they have to  
21 understand they better be careful because when they get caught  
22 they are going to be arrested, they are going to be destroyed  
23 financially, they are going to be disgraced, disbarred if they  
24 are attorneys or delicensed if they are some other kind of  
25 professional, and yes, go to jail. They are going to go to

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1 jail. That is what happens when people commit serious crimes.  
2 They go to jail because that is how society expresses its  
3 outrage at certain behavior.

4 So in some ways I think, Mr. Soshnick, you may have  
5 done a disservice to your client and your client's family by  
6 suggesting it was realistic to expect that there would be a  
7 noncustodial sentence here. Mr. Cutillo was sentenced a couple  
8 months ago and he received a sentence of 30 months to the low  
9 end of the guidelines range. Mr. Cutillo who had his own  
10 serious family circumstances, he has young children with  
11 special needs, who are financially devastated by this and who  
12 will continue to be affected by this obviously could have made  
13 very powerful arguments for leniency, he chose a very different  
14 approach to sentencing. He said he was ashamed and knew he had  
15 to be punished and acknowledged that he had betrayed everything  
16 that he was taught as a young man and everything that he  
17 believed as a lawyer.

18 Ultimately Mr. Goldfarb took a very different  
19 approach. I don't know which was right. I don't know that one  
20 is better than another. It doesn't really matter. The  
21 sentence I am going to impose is not going to be determined by  
22 the strategies dealing with sentencing that lawyers or  
23 defendants need. Each of these men, Mr. Cutillo and  
24 Mr. Goldfarb, are a decent man. I think each was a good  
25 lawyer. Each has people who care about them deeply. Each has



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1 people that is going to be affected by the sentence imposed.  
2 They are just sorry for what they did, but nonetheless each  
3 engaged in a different crime. One can argue the relevant  
4 culpability of each, but the fact remains that to sentence one  
5 man to 30 months and the other to a noncustodial sentence I  
6 think would be an injustice.

7 If anything in my line Mr. Goldfarb has been more  
8 culpable of the two, although it was Mr. Cutillo that breached  
9 the duties he owed to his firm and to his clients. Mr.  
10 Goldfarb was a willing participate in this scheme and knew  
11 exactly what was happening and in fact is the one who  
12 introduced Mr. Cutillo to the scheme. To listen to these tapes  
13 as I have, not just this one but the others, it is very clear  
14 that Mr. Goldfarb as not merely a willing participant was an  
15 energetic participant. There is almost a giddiness on the  
16 phonecalls. There is a sense of what we're doing is dangerous  
17 and exciting and it is potentially lucrative and I don't think  
18 anyone can listen to these calls and come away and think that  
19 this was a reluctant decision made by someone who is faced with  
20 dire financial circumstances. It rings hollow.

21 So it is my intention to impose a term of  
22 incarceration of 36 months, three years. That is a long time.  
23 It is a little more than Mr. Cutillo, but for the reasons I  
24 said it is appropriate. It is a little below the guidelines.  
25 The guidelines I don't let drive a decision. I basically look

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1 at a crime, look at the conduct, decide in my own mind what  
2 seems like a ballpark number and then I look at the guidelines  
3 to see we're roughly in the same ballpark.

4 MR. SOSHNICK: Your Honor, you are aware of the  
5 Probation recommendation was 24 months.

6 THE COURT: Do you for a minute imagine that I am not  
7 aware of that?

8 MR. SOSHNICK: Okay, your Honor.

9 THE COURT: Are you serious, Mr. Soshnick?

10 MR. SOSHNICK: I apologize, your Honor.

11 THE COURT: Yes, I am aware of that. I am aware also  
12 the Probation recommendation doesn't seem to focus on many of  
13 the factors that I been spending the last half hour talking  
14 about. So since the responsibility falls on me to impose the  
15 sentence, I am certainly aware of the recommendation, but I  
16 probably follow the recommendation of Probation with the same  
17 frequency that I follow the guidelines. Respectfully I think  
18 they are valuable, but ultimately the decisions is mine.

19 My intention is so sentence Mr. Goldfarb to a term of  
20 three years' incarceration to be followed by a term of  
21 supervised release. That term of supervised release will be  
22 for a period of three years. It will include the conditions  
23 that I will go into in a moment, but are the ones set forth in  
24 the presentence report. I will impose a fine of \$32,500. As  
25 well as restitution in the amount of a little over one million

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1 dollars set forth in the proposed order that was part of the  
2 stipulation at the time of the guilty plea. Restitution is not  
3 appropriate or applicable in this case. I will impose a  
4 special assessment of \$200, \$100 for each of the counts of  
5 convictions.

6 Is there any legal impediment to my imposing that  
7 sentence, Mr. Tarlowe?

8 MR. TARLOWE: No, your Honor. I think the Court  
9 misspoke and referred to it as restitution rather than  
10 forfeiture.

11 THE COURT: I am sorry. I did misspeak. It is a  
12 forfeiture order. Restitution is not applicable.

13 Mr. Soshnick, are you aware of any legal impediment to  
14 imposing such a sentence.

15 MR. SOSHNICK: No, your Honor.

16 THE COURT: Mr. Goldfarb, please stand.

17 Mr. Goldfarb, having accepted your guilty plea back in  
18 April, I now sentence you as follows: I sentence you to a term  
19 of incarceration of three years, 36 months. That is to run  
20 concurrent on each of the counts of conviction, Count One and  
21 Count Three. In addition, I am going to impose a three-year  
22 term of supervised release to run concurrent on Counts One and  
23 Three of the indictment. That term of supervised release will  
24 include the following mandatory conditions: You shall not  
25 commit another federal, state or local crime. You shall not

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1 illegally possess a controlled substance. You will not possess  
2 a firearm or other destructive device. You will cooperate in  
3 the collection of DNA as directed by Probation.

4       There are standard conditions 1 through 13 that are  
5 imposed in virtually every case involving supervised release.  
6 I will impose those. I will also impose the following special  
7 conditions: First, that you shall provide the Probation office  
8 with access to any requested financial information. You shall  
9 not incur new credit charges or open additional lines of credit  
10 without the expressed permission of your Probation officer. I  
11 will direct that you participate in an alcohol treatment  
12 program and that that program and your supervision will include  
13 testing by a Breathalyzer at the direction of the Probation  
14 officer or the treatment provider to determine whether you have  
15 reverted to the use or abuse of alcohol. You will participate  
16 in a mental health program approved by U.S. Probation Office  
17 along the lines of what you are receiving now. You will  
18 continue to take any prescribed medications, unless otherwise  
19 instructed by a health care provider. You will contribute to  
20 the cost of services rendered that are not covered by  
21 third-party payment. So to the extent you can defer the cost  
22 of those services, you will be expected to pay them. If you  
23 can't then the government will bear the expense of those  
24 programs. It is important that you get the programs. I will  
25 authorize the release of psychological and psychiatric

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1 evaluations and reports to the health care provider and from  
2 the health care provider to Probation. There is a free flow of  
3 information between Probation and health care provider.

4 You will be supervised in the district of your  
5 residence, which is for now Southern District of New York. I  
6 assume that will continue unless you move to Brooklyn or  
7 someplace. Let them know and you can transfer supervision. I  
8 am not going to impose restitution, which is not applicable. I  
9 will impose a fine of \$32,500. I will also order that you  
10 forfeit the \$1,103,131 that is set forth in the order of  
11 forfeiture and the plea agreement. There is a \$200 special  
12 assessment, which I said \$100 for each count. That is the  
13 sentence.

14 I will allow you to voluntarily surrender. I will  
15 give you 60 days so the Bureau of Prisons can make a  
16 designation and you can report to that facility which will  
17 hopefully be a facility in the New York area. I will make that  
18 recommendation strongly. I will also request or recommend that  
19 you be at a facility that will enable you to take advantage of  
20 a substance abuse program. That will be up to the Bureau of  
21 Prisons. I will make that recommendation. The benefit of such  
22 program is that it could reduce your sentence and certainly  
23 will provide you with the kind of care that will be useful to  
24 you going forward. I will also recommend that you receive  
25 mental health treatment while in custody and that be designated

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1 at a facility that can best provide those services to you. So  
2 I will direct that Dr. Kirwin's report be made available to the  
3 Bureau of Prisons so that they can take into account her  
4 findings, recommendations, and then tailor your designation to  
5 your needs with respect for mental health treatment.

6 Are there open counts, Mr. Tarlowe?

7 MR. TARLOWE: Yes, your Honor. The government moves  
8 to dismiss the underlying indictment as well as Counts and 11  
9 of the superseding indictment.

10 THE COURT: I will dismiss those counts.

11 Mr. Goldfarb, you have a right to appeal this sentence  
12 to the extent you haven't already waived it. If you wish to  
13 appeal you need to do so within two weeks from today. If you  
14 wish to appeal, talk to Mr. Soshnick and he will help you with  
15 filing the notice of appeal. The notice of appeal will need to  
16 be two weeks obviously. After that there will be a schedule  
17 for the appeal briefs. If you cannot afford to pay the filing  
18 fee, talk to Mr. Soshnick. There is a form you can fill out  
19 that will result in the fee being waived.

20 Mr. Soshnick, anything else you wanted me to  
21 recommend?

22 MR. SOSHNICK: Yes. I would ask you making a specific  
23 recommendation as to the camp at Fort Dix.

24 THE COURT: Camp at Fort Dix. I don't mind making  
25 that recommendation. Ultimately it is up to the Bureau of

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1 Prisons.

2 MR. SOSHNIK: I understand.

3 THE COURT: I am familiar with that camp. It is open.  
4 It is close. It is a pretty good facility. There may be  
5 others that the Bureau of Prisons thinks are appropriate in  
6 light of the recommendations and other things they may have to  
7 consider. I will leave it to them, but I will make the  
8 recommendation.

9 Mr. Goldfarb, let me finish by saying this: Ms. Hart  
10 said you are a special person. I absolutely share that view.  
11 You are a good, decent person. This is a crime that has to be  
12 punished. I explained my reasons for this sentence. I think  
13 it is an appropriate sentence in light of all those reasons.  
14 It doesn't diminish my view that you are a person of talent, a  
15 person of quality. You are a person who has the ability and a  
16 great future in front of you. It may not be as a lawyer as a  
17 result of this conviction, but it certainly can and I think  
18 should include many of the qualities that we're talking about  
19 today, the ability to connect with people, the ability to  
20 understand what they are going through and to help them in a  
21 way that many other lawyers clearly didn't do in this case in  
22 their cases.

23 So don't lose sight of that fact. This crime does not  
24 define you. This crime was a bad one and a serious one. I  
25 probably find it more serious than you and others here today by



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1 virtue of what they have been asking for. But it doesn't  
2 define you. There is much, much more to you than this. You  
3 will be released. You are a young man. When you get out, you  
4 will resume your life, you will resume your relationships and  
5 you will make something of yourself. You will continue to make  
6 something of your life. What happened here today doesn't  
7 discount everything you have done in your life. It doesn't.

8 You should be proud of what people said about you here  
9 today. It is true and it is not something that people say  
10 about everyone. You have earned it. The fact that you have to  
11 now endure this punishment, doesn't mean that you are not  
12 capable of great things going forward. It is my hope that you  
13 will have a happy life, a full life and a life that is worthy  
14 of your talents. You deserve this. Everyone in this room  
15 deserves that. I have no doubt the sentence I have imposed is  
16 one that is one that makes you unhappy, that you don't agree  
17 with what I determined here. But I think you do agree on what  
18 I said last, which is that you do have a future and it is a  
19 future that can be a great one if you want it to be. So I hope  
20 you will do that.

21 Thank everyone for coming here today. You may walk  
22 out of here saying you disagree with the sentence I imposed. I  
23 respect that. I hope you will respect my decision and the  
24 decision-making process. I hope as I said before at least you  
25 will agree that this was not a callus, reflexive or thoughtless

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1 process. I put a great deal of thought into it. I did in my  
2 judgment what was the right thing. I hope you will continue to  
3 be there for Mr. Goldfarb. He will need you more or as much as  
4 ever. The fact that he will be separated from you for a time  
5 does not mean you will not still be important to him. A  
6 relationship is a two-way street. Prison doesn't mean it will  
7 end. They don't have to be destroyed. And in fact sometimes  
8 they will grow. My hope is that they will grow. I ask you to  
9 do your part. I commend you for it and I am moved by it, but I  
10 hope you will not -- let me put this way, I hope you will  
11 continue to be there. He is a person who needs it and he is a  
12 person who deserves it.

13 Let me thank the court reporter who has been working  
14 nonstop. Let me thank the lawyers. Mr. Soshnick, you put  
15 tremendous effort into this proceeding and that wasn't lost on  
16 me, Mr. Soshnick. Thank you for doing that. Thank you  
17 Mr. Tarlowe as well. With that, I bid you good day.

18 MR. SOSHNICK: Your Honor, thank you for all your  
19 time. I know you spent a great deal of time on this matter and  
20 struggled with it and we thank you for your words of  
21 encouragement that you just gave to my client.

22 THE COURT: Thank you.

23 Good luck to you, Mr. Goldfarb.

24 o0o

25